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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91217618
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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

DONALD J. TRUMP,

Opposer,

-against-

TRUMP YOUR COMPETITION, INC.,

Applicant.

Opposition No. 91217618

OPPOSER'S NOTICE OF FILING TESTIMONY DEPOSITION

Pursuant to 37 C.F.R. § 2.123 (f) and (h), Opposer Donald J. Trump hereby files a certified copy of the Testimony Deposition Transcript of Alan Garten with Exhibits 1 - 5 and an errata sheet. Pursuant to 37 C.F.R. § 2.125 (b), Opposer provided counsel for Applicant a copy of the errata sheet prior to making this filing.

Dated: New York, New York
December 17, 2015

HUGHES HUBBARD & REED L.L.P.

By: 

Natasha N. Reed

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CERTIFICATE OF SERVICE

I hereby certify that I am over the age of 18 years, not a party to this action, and that on the 17th day of December 2015, I caused to be served a true and correct copy of the foregoing OPPOSER'S NOTICE OF FILING TESTIMONY DEPOSITION by first class mail and email to Applicant as follows:

Mr. Rod Underhill

P.O. Box 1238
Julian, California
92036-1238

Mp3rod@aol.com

I certify under penalty of perjury that the foregoing is true and correct.

Dated: New York, New York
December 17, 2015

By: 
Lena C. Saltos

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ALAN GARTEN, ESQ.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

DONALD J. TRUMP)
Opposer,)
v.) Opposition No.
TRUMP YOUR COMPETITION, INC.) 91217618
Applicant.)
_____)

TRANSCRIPT OF ALAN GARTEN, ESQ.

November 12, 2015

10:08 a.m.

Deposition of ALAN GARTEN, ESQ., taken
by Opposer, at the offices of Hughes Hubbard &
Reed LLP, One Battery Park Plaza, New York, New
York, before Brandon Rainoff, a Federal
Certified Realtime Reporter and Notary Public of
the State of New York.

1 ALAN GARTEN, ESQ.

2 A P P E A R A N C E S

3

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ALAN GARTEN, ESQ.

I N D E X O F E X A M I N A T I O N

Witness:

Alan Garten, Esq.

Examination:

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Cross by Mr. Underhill.....Page 70

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1	ALAN GARTEN, ESQ.	
2	I N D E X O F E X H I B I T S	
3	(Stipulated by counsel as offered into evidence)	
4		
5	Exhibit 1	Single-page document entitled: US PT013
6		Service Mark Principal Register, dated
7		March 16, 1999 (no Bates Nos.)
8		
9	Exhibit 2	Multipage document bearing images38
10		(no Bates Nos.)
11		
12	Exhibit 3	Multipage document bearing images56
13		(no Bates Nos.)
14		
15	Exhibit 4	Single-page document bearing image64
16		(no Bates No.)
17		
18	Exhibit 5	Three-page document bearing heading on67
19		first page:
20		http://www.trumpyourcompetition.com/
21		(no Bates No.)

1 ALAN GARTEN, ESQ.

2 * * *

3 P R O C E E D I N G

4 Thursday, November 12, 2015

5 New York, New York

6 10:08 a.m.

7 * * *

8 ALAN GARTEN, ESQ.,

9 having been duly sworn, was examined and
10 testified as follows:

11 MS. REED: I just want to make a
12 couple of stipulations before we start.

13 The first one is that the parties
14 stipulate that any exhibits that are marked and
15 identified today will be deemed as being offered
16 into evidence.

17 MR. UNDERHILL: So stipulated.

18 MS. REED: And the second is that the
19 parties have not actually entered into a formal
20 protective order.

21 But the parties agree that this
22 proceeding is governed by the standard
23 protective order issued by the Trademark Trial
24 and Appeal Board of the U.S. Patent and
25 Trademark Office.

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2 MR. UNDERHILL: So stipulated.

3 MS. REED: I also want to add that
4 today, Mr. Alan Garten is testifying in the
5 opposer's testimony period.

6 And Mr. Underhill, who represents the
7 applicant, is free to cross-examine Mr. Garten.
8 And he's free to ask him any question he would
9 like to ask, even beyond the scope of our direct
10 examination -- provided, obviously, that it
11 doesn't elicit anything that's attorney-client
12 privileged; and that privilege is not waived.

13 MR. UNDERHILL: I'm not stipulating to
14 that as an offer by counsel.

15 Thank you.

16 MS. REED: Okay.

17 DIRECT EXAMINATION

18 BY MS. REED:

19 Q. Mr. Garten, are you currently
20 employed?

21 A. Yes.

22 Q. Where do you work?

23 A. The Trump Organization.

24 Q. How long have you worked for The Trump
25 Organization?

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2 A. Since December, 2006.

3 Q. What is your current position at The
4 Trump Organization?

5 A. Executive vice-president and general
6 counsel.

7 Q. Have you always had that position at
8 The Trump Organization?

9 A. No.

10 When I started, I was assistant
11 general counsel.

12 And around three years ago, I was
13 promoted to executive vice-president and general
14 counsel.

15 Q. Can you briefly explain the nature of
16 your responsibilities at the company?

17 A. Sure.

18 So I am responsible -- I'm the general
19 counsel and responsible for overseeing virtually
20 all legal matters -- from transactions, to
21 litigation, to employment, to intellectual
22 property.

23 And as it relates to today,
24 intellectual property would include brand
25 management of the Trump brand and all of its

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2 marks -- including, you know, the Trump house
3 mark, and all of its derivative marks, and
4 everything within the trademark portfolio --
5 brand management and enforcement of the
6 trademarks -- everything, sort of, from soup to
7 nuts associated with intellectual property
8 matters; along with everything else on the legal
9 side, you know, which is commercial litigation,
10 all types of litigation, virtually everything
11 legal-related.

12 Q. You mentioned transactional.

13 So can you describe what that type of
14 work entails?

15 A. I'm involved in transactional matters
16 for the company acquisitions -- you know, lots
17 of different types of transactional matters.

18 Q. Do those transactional matters involve
19 trademarks or licensing at all?

20 A. Sure.

21 When I first actually started with the
22 company, my primary task was transactions and I
23 worked on a ton of licensing matters.

24 Today I'm still involved in the
25 licensing part of the business -- both from a

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2 business perspective, advising my client on
3 business issues, on how to enter into license
4 deals and license the brand; and also from a
5 legal perspective, consulting and overseeing our
6 legal team and entering into different licensing
7 deals -- whether they be real estate licensing
8 deals, product licensing deals -- runs the
9 gamut.

10 Q. You said: Advising your client.
11 Who is your client?

12 A. I'm employed by The Trump
13 Organization.

14 The Trump Organization is principally
15 owned by Donald Trump and is run by Mr. Trump,
16 and his -- members of his family, as well as
17 other executives at the company.

18 Q. Can you tell us who the other members
19 of his family are that run the company?

20 A. Sure.

21 So the members of his family who are
22 involved are his three eldest children, Donald,
23 Jr., Ivanka and Eric Trump.

24 Q. What is Ivanka Trump's position at the
25 company?

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2 A. All three of them are executive
3 vice-presidents.

4 Q. You mentioned your responsibilities at
5 The Trump Organization including all legal
6 matters.

7 Can you tell me just generally how you
8 perform your responsibilities?

9 A. Sure.

10 So it's sort of a twofold approach.

11 We have our own internal team. And
12 we've got, you know, members of our team. We've
13 got other lawyers on our team. And we've got
14 paralegals, assistants. And we all sort of work
15 collectively to, you know, oversee legal matters
16 at the company.

17 When it comes to intellectual
18 property, we've got a paralegal who is solely
19 dedicated to intellectual property matters. We
20 have a separate paralegal who is just a
21 trademark paralegal. And then we have other
22 people involved -- another attorney principally
23 involved -- who assists me in overseeing -- both
24 overseeing the portfolio itself and a lot on
25 brand management and enforcement; which often

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2 includes sending cease-and-desist letters, you
3 know, commencing actions where we believe we see
4 infringement, filing oppositions to trademark
5 applications, policing the registration of
6 domain names.

7 Again, it is, sort of, all aspects of
8 intellectual property.

9 In addition to our internal team, then
10 we work with outside counsel -- whether it be
11 Hughes, Hubbard & Reed and other firms -- within
12 the U.S. and also around the world.

13 Q. Are there other senior executives that
14 are involved in the day-to-day management of
15 trademark licensing or trademark portfolio
16 management?

17 A. So I would say that, when it comes to
18 trademark portfolio management, Eric Trump, Mr.
19 Trump's son, is sort of the one executive who is
20 principally involved in overseeing the trademark
21 portfolio and taking steps to protect it and
22 enforce our intellectual property rights.

23 Other members of the family -- Donald,
24 Jr. and Ivanka -- are involved sort of in terms
25 of licensing deals.

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2 But Eric Trump is really the person
3 who is principally involved in overseeing what I
4 do on the intellectual property front.

5 Q. How is, if at all, Mr. Trump involved
6 in the day-to-day activities of managing the
7 portfolio and licensing -- trademark licensing?

8 A. He's not.

9 He's -- you know, the company is -- is
10 sort of a conglomerate of various business
11 interests. And Mr. Trump does not get involved
12 in the sort of -- that's my job to oversee the
13 portfolio and work with Eric Trump when
14 necessary. But principally that's my job, and
15 sort of that's delegated to me.

16 So he's not involved in the
17 day-to-day.

18 Q. Generally, can you tell me what, if
19 anything, that you did to prepare for today's
20 testimony?

21 A. Reviewed select documents and briefly
22 spoke with counsel.

23 Q. Can you state the address of The Trump
24 Organization -- your business address -- for the
25 record?

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2 A. Trump Organization main offices are
3 725 Fifth Avenue, New York, New York, in Trump
4 Tower.

5 MS. REED: I'd like to offer Exhibit
6 1.

7 (Exhibit 1, Single-page document
8 entitled: US PTO Service Mark Principal
9 Register, dated March 16, 1999 (no Bates Nos.),
10 marked for identification)

11 BY MS. REED:

12 Q. Mr. Garten, do you recognize this
13 document that's marked as Exhibit 1?

14 A. Yes, I do.

15 Q. What is it?

16 A. It is the registration with the United
17 States Patent and Trademark Office of the mark
18 Trump -- or The Trump Organization.

19 Q. Do you see on the registration where
20 it states: First Use?

21 And then it says: In Commerce?

22 A. Yes.

23 Q. Can you tell us what year is listed
24 there?

25 A. It says: December 31, 1964.

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2 Q. Do you know what that date represents?

3 A. That date corresponds to when The
4 Trump Organization was first created by Mr.
5 Trump when -- I believe when his -- I believe it
6 coincides when he -- I know it does.

7 It's the date when he formed the
8 company, and registered the mark, and when he,
9 sort of, went out on his own in the real estate
10 business.

11 Q. You said: When he also registered the
12 mark.

13 What do you mean by that?

14 A. Well, I guess that's when he first
15 started using the mark. That's when he first
16 started using the name "The Trump Organization"
17 to refer to his business.

18 I see it was registered later.

19 But the first time he used it was in
20 1964 when he went on his own; formed the
21 company.

22 Q. Do you see in the Exhibit 1 where it
23 says: For -- the word "For:" -- then there is a
24 description?

25 A. Yes.

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2 Q. Can you read that description for the
3 record?

4 A. It says: For: Real estate planning,
5 laying out, development and construction
6 services of residential, industrial and
7 commercial properties services in Class 37.

8 Q. Is The Trump Organization currently
9 involved in offering those services under The
10 Trump Organization trademark?

11 A. Yes.

12 Q. Are there any other goods and services
13 that are offered under The Trump Organization
14 trademark?

15 A. Yes.

16 The company now, you know, today is --
17 The Trump Organization essentially refers to the
18 larger enterprise which started out in, you
19 know, 1964 as predominantly a real estate
20 development construction and planning company;
21 and has now expanded into a multitude of other
22 areas on the real estate side.

23 Just on the real estate side, that
24 would be real estate development, real estate
25 construction, real estate brokerage, real estate

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2 management, real estate licensing, hotel
3 development, condominium development, golf
4 course development.

5 Then you've got casinos -- a casino
6 business -- businesses. You've got product
7 licensing.

8 So there is a whole host of products
9 which have the Trump house mark, I guess you
10 could call it.

11 You've got other sub-businesses.
12 There is Trump University. There is
13 entertainment services. So you've got Trump
14 Productions, which produces television shows;
15 was and is a producer of the television show The
16 Apprentice, which ran for, you know, 14 seasons.

17 Trump Organization was involved, and
18 was -- up until about two or three months ago --
19 50% owner of the Miss Universe organization.
20 And The Trump Organization and Trump brand was
21 used in connection with that organization.

22 You've got books. Mr. Trump has
23 written, you know, 15, 20 -- more than 20 books,
24 which prominently use the Trump name and
25 associated logos and derivative marks.

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2 Trying to think what else I'm
3 missing -- product licensing, hotel -- yeah,
4 that's sort of it.

5 Q. In --

6 A. Oh, wine -- I'm sorry -- winery -- you
7 have the winery -- yeah.

8 Q. On the product licensing front, can
9 you give examples of products that bear the
10 Trump house mark, as you called it?

11 A. Sure.

12 So over the years, Mr. Trump has
13 licensed the mark for a wide variety of
14 products -- from shirts and ties and suits, to
15 fragrances, to vodka, to steaks, to water,
16 golf-related apparel.

17 Talking just products?

18 There is Trump home furnishings.

19 There is Trump tea.

20 I'm sure there is others that are
21 missing.

22 Q. Okay.

23 Are all of these -- excuse me.

24 Strike that and rephrase.

25 What trademark is used to, I guess, to

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2 sell these products?

3 Or promote these services?

4 A. All of these products use the Trump --
5 what we call the Trump house mark, the basic
6 Trump mark.

7 Then often there will be sort of
8 derivations of the Trump mark.

9 So, for example, you know, all of his
10 books -- almost all of his books have
11 prominently the Trump name. And many of the
12 titles will be "Trump" plus something else:
13 Trump: The Art of a Deal, Trump, you know --
14 whatever it is.

15 And then also on -- we were just
16 talking about products. You can have Trump tea,
17 Trump steaks, Trump vodka. Those are sort of
18 the basic house mark -- use of the house mark.

19 Then you've got hundreds of
20 derivations of the Trump house mark. For
21 example, I could give a multitude of examples --

22 Q. We'll go through some of the examples.

23 But so, when you say "the Trump house
24 mark" -- and you sort of explained it -- what do
25 you mean "the Trump house mark" then

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2 "derivatives of the mark"?

3 A. By "Trump house mark," I mean the name
4 "Trump."

5 And by "derivatives of it," I mean
6 Trump International Hotel & Tower, Trump
7 national golf course, Trump estates, Trump
8 International Realty, Trump Mortgage.

9 We are talking about hundreds of marks
10 that have been registered over the years.

11 Q. Approximately how much money in gross
12 revenues would you say the organization has
13 generated in connection with offering goods and
14 services under the Trump house mark in the
15 United States?

16 You could talk about, you know,
17 international, worldwide.

18 Then what portion of that would be
19 sales in the U.S. ?

20 A. It is difficult to sort of put an
21 exact number on it.

22 But over the years, you are talking
23 about in the -- probably in the billions of
24 dollars.

25 On a year-to-year basis worldwide, it

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2 would be in the hundreds of millions of dollars.

3 Probably in, you know, you know, I
4 would say in last year, you are talking about
5 upwards -- or in excess -- of maybe \$400
6 million.

7 In the U.S. it would be about 65 to
8 70 -- probably 70% of that is generated in the
9 United States.

10 Q. And how do you know this?

11 A. I'm general counsel of the company.
12 So I'm familiar with the licensing -- I'm
13 familiar with all aspects of the use of the mark
14 in every which way.

15 I am aware of -- I worked on and
16 continue to work on how the mark is used --
17 whether it be in a licensing deal to a third
18 party, whether it be to offer and sell products
19 that we ourselves develop or create.

20 Like, if we are going to develop a
21 condominium building in Chicago -- which we have
22 done -- or Las Vegas, then sell off units, I'm
23 involved in both legal aspect and the business
24 aspect. I work closely with every member of the
25 company, including our accounting department. I

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2 receive from time to time e-mails which have
3 breakdowns of how revenues are being generated
4 and which projects they are coming from and
5 where sales are coming from.

6 So I'm pretty familiar with all of the
7 financial aspects of the company.

8 Q. Does the company and/or its licensees
9 do anything to promote the goods and services
10 under the Trump house mark?

11 A. Yeah -- a lot of what we do is sales
12 and marketing efforts.

13 We are offering generally products of
14 different kinds -- whether it be, you know, home
15 products or condominium units, real estate
16 memberships to clubs -- golf clubs, private
17 member clubs, social clubs.

18 So a lot of what goes into that is
19 sales and marketing efforts.

20 We oversee sales and marketing of our
21 own projects.

22 I gave the example of Chicago and Las
23 Vegas. So we would oversee the sales and
24 marketing of that ourselves.

25 When it comes to deals where we are

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2 licensing the Trump mark -- let's say, for
3 example, on a real estate deal -- that would be
4 a deal where a third party is developing a
5 project, but we -- sort of to police and protect
6 the mark and use of our brand, our deals all
7 have pretty rigorous approval requirements where
8 all sales and marketing is subject to our
9 approval.

10 And there are detailed procedures in
11 all of our documents which has sort of an
12 approval process. Everything has to be run
13 through us.

14 So we are very involved in sales and
15 marketing -- not just for products that we are
16 involved in ourselves, but for projects where
17 other people are developing. We are on top of
18 it and police it.

19 Q. So when you say "sales and marketing"
20 or "marketing" -- what does that entail?

21 Is that advertising?

22 What is that, exactly --

23 A. Yeah -- it can come in sort of a lot
24 of different forms depending on the product,
25 depending upon a lot of different factors.

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2 So there is sort of what I would call
3 traditional sales and marketing, which is
4 magazines, or radio, or television,
5 newspapers -- things of that nature.

6 And then there is, you know, more I
7 guess modern technology-based types of
8 advertising -- social media, Internet, website,
9 etc. -- e-mail blasts, things like that.

10 And we are pretty strict and we go to
11 great efforts -- we have our own internal
12 marketing team -- to enforce and police the
13 activities, both by us and by other parties.

14 Q. Approximately how much money has your
15 organization and/or its licensees spent, let's
16 say, within the last year on marketing -- sales,
17 marketing and advertising -- goods and services
18 under the Trump name, both worldwide and in the
19 U.S., if you can --

20 A. Hard to pinpoint because every deal is
21 sort of a separate entity.

22 And -- but you are talking about in
23 the tens of millions of dollars per year --
24 yeah.

25 Q. Is that worldwide advertising?

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2 Or is that just for the U.S.?

3 A. You'd easily be talking about in the
4 tens of millions of dollars worldwide, of which
5 in terms of U.S., first, internationally I would
6 say 65 to 70% -- sort of the same percentage --
7 it would be a corresponding percentage to the
8 amount of deals -- the amount of revenue
9 generated from the use of the brand.

10 It would correspond to -- you know, 65
11 to 70% of that would probably be in the U.S. and
12 rest of it outside.

13 Traditionally, the company has been a
14 U.S.-based company.

15 In recent years, there has been a lot
16 of efforts to expand internationally. It's been
17 pretty successful. And that's a growing sort of
18 element of what we do.

19 But it's traditionally a U.S.-based
20 project with most of our efforts in the U.S.

21 Q. I'll ask you the same question: How
22 do you know that you have spent in the tens of
23 millions of dollars in advertising?

24 A. Because I've worked -- you know, I've
25 worked for the company for the last almost 10

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2 years. And, you know, I'm involved in all this.

3 In fact, I work extremely closely with
4 the marketing people, because I do all of the
5 oversight and review of all the marketing
6 efforts to make sure that they are legally
7 compliant and proper from a business standpoint.

8 So whether it be me sort of providing
9 guidance to our marketing people, or me, myself,
10 by hand, sort of overseeing and approving --
11 ultimately approving -- all the marketing and
12 making sure it has the proper language and
13 protections, all of it ultimately goes through
14 me anyway.

15 Q. Does that include the expenses that
16 are spent for advertising?

17 A. I'm not involved in the approval of
18 expenses.

19 But I'm aware of sort of the companies
20 that we have worked with and the marketing
21 efforts.

22 So -- yeah, so I'm pretty familiar
23 with that whole process.

24 Q. So you mentioned the company and
25 Mr. Trump do business under the Trump house mark

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2 for a variety of goods and services.

3 So let's just go through each of
4 those.

5 A. Sure.

6 Q. You mentioned real estate and
7 development.

8 Can you give examples of the use of
9 either the Trump house mark alone or as a
10 derivative mark for commercial and residential
11 real estate properties?

12 A. Yeah -- I mean, just in New York
13 alone, you could look at 20 different -- or
14 more -- properties that use the Trump name --
15 whether it's The Trump Building at 40 Wall
16 Street, which is right around the corner from
17 here. You've got Trump Tower on Fifth Avenue.
18 You've got Trump World Tower. You've got Trump
19 Plaza on Third Avenue and 63rd Street. You have
20 Trump Park. I think there is Trump Park East.

21 I mean, there are countless Trump, you
22 know, buildings.

23 You've got Trump Place on the upper
24 west side.

25 I'm sure I'm missing many.

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2 Then you -- those all use the Trump
3 house mark in conjunction, you know, with some
4 other term.

5 Then you've got derivative marks,
6 which around the country, you are talking about
7 the golf courses are all branded Trump National
8 Golf Club, and then usually an identifier --
9 location identifier. So you've got Trump
10 National Golf Club Palm Beach, Trump National
11 Golf Club DC, Bedminster, Briarcliff,
12 Philadelphia.

13 I think there is now 15-16 golf
14 courses around the world. And they all use the
15 Trump National Golf Club mark.

16 Internationally, you've got Trump Golf
17 Links Scotland, clubs in Turnbury, and other
18 places as well.

19 On the hotel side, you know, going
20 on --

21 Q. You --

22 A. -- you have got Trump International
23 Hotel & Tower, Chicago, Trump Hotel -- I believe
24 now it's called Trump Hotel Las Vegas, Trump
25 Soho Hotel, you know, in lower Manhattan,

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2 Trump -- Trump International Hotel Central Park
3 West on the upper west side.

4 Q. What about for casinos?

5 A. Casino -- there was Trump Plaza.
6 There still is the Trump Taj Mahal in Atlantic
7 City. There is also a casino in -- Trump
8 International Hotel & Tower Panama has a casino
9 as well.

10 Q. You also mentioned wines and
11 vineyards.

12 Can you give an example of a Trump
13 formative mark for wines or vineyards?

14 A. Yeah -- so the Trump name is used --
15 Mr. Trump himself and through various companies
16 he controls and his family controls own a winery
17 in Charlottesville, Virginia, known as Trump
18 Winery. I think it's called Trump Winery
19 Charlottesville.

20 And at Trump Winery they have several
21 different sort of products being offered. One
22 is there is a huge hotel with the Trump mark.
23 There is Trump wine, which is manufactured and
24 distributed along the east coast, with, you
25 know, on the labels, big, prominent letters

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2 "Trump" across it.

3 There is a Trump wine tasting room.

4 There is tremendous event business all at the

5 Trump Winery.

6 Q. What about entertainment-related
7 services?

8 You mentioned "Trump" was being used
9 for that as well.

10 Can you give examples?

11 A. So on the entertainment front, you
12 have got Trump Productions, which was a producer
13 for The Apprentice and still develops, produces
14 a series of television shows right now.

15 You have got Trump pageants, which is
16 a principal owner of the Miss Universe
17 organization.

18 You've got -- the Trump name is also
19 used in connection with books.

20 Q. You mentioned previously Trump Models?

21 A. Trump Model Management -- right.
22 Trump Model Management is a modeling agency
23 that's based in New York which -- yes, which
24 also is -- which obviously uses the Trump mark.

25 Q. For Trump Productions, you mentioned

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2 that -- that was a company that produced The
3 Apprentice?

4 A. Yeah -- so Trump Productions still
5 exists. And although The Apprentice is not
6 running now, Trump Productions was a producer --
7 along with Mark Burnett productions, the creator
8 of The Apprentice -- so actually, if you watch
9 the end of The Apprentice, it always says Mark
10 Burnett, it will say Trump Productions -- so it
11 gets production credit. And it, you know, it
12 was in the business of co-producing with Mark
13 Burnett.

14 In addition, Trump Productions has
15 produced other TV shows as well -- some reality
16 TV shows. There are some that are in
17 development.

18 And I believe also Trump
19 Production was involved in the production of
20 the Miss Universe -- Miss Universe, Miss USA,
21 Miss Teen USA pageants.

22 Q. For The Apprentice, can you just tell
23 us briefly what that show was about?

24 A. Sure.

25 So the Apprentice was -- ran 14

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2 seasons.

3 It's not currently in production. It
4 is actually in production with other -- another
5 host in the United States.

6 Mr. Trump -- you know, as most people
7 know -- was the host of the show and co-creator
8 of the show with Mark Burnett. It ran on NBC
9 for 14 seasons. It's now running in development
10 with a new host. It also runs internationally.

11 And sort of the -- the idea behind the
12 concept for the show was for contestants to
13 compete with one another to become Mr. Trump's
14 apprentice; and to exemplify their business
15 skills and negotiating skills; and compete
16 against each other to show who was sort of, you
17 know, best qualified to be his apprentice.

18 Q. You mentioned beverages. I know you
19 spoke of wine.

20 Are there any other beverages using
21 the Trump house mark or a formative derivative?

22 A. There is currently a Trump water.

23 There is currently Trump Tea products.

24 There is -- there was a Trump Vodka,
25 which no longer is for sale. It was sold in --

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2 Trump vodka actually was sold in the U.S.

3 And there was actually -- someone
4 tried to sell it in Israel. We actually brought
5 an infringement action against the company in
6 Israel and litigated it in court in Israel.

7 Water, wine, tea, vodka -- that's all
8 I can think of.

9 Q. You mentioned also apparel.

10 Can you give examples of the use of
11 the Trump house mark or a derivative of the
12 Trump house mark for apparel?

13 A. In apparel, the Trump mark and house
14 mark has been successful -- very successful --
15 and used quite a bit. You have a series of
16 deals.

17 You had -- and still have -- a deal
18 for the manufacturing of shirts -- shirts, ties
19 and suits. Shirts and ties were manufactured
20 with the Trump name. I think it's called
21 actually the Donald Trump Signature -- it is
22 called the Donald Trump Signature Collection.

23 And that was manufactured -- suits and
24 ties were manufactured by -- or are still
25 manufactured by -- Phillips-Van Huesen, which is

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2 one of the largest sort of suit and tie
3 manufacturers in the world and distributed in
4 Macy's and other places.

5 Suits were manufactured by a company
6 called Marcraft.

7 And I'm not sure who manufactures them
8 now offhand.

9 There are Trump golf shirts, every --
10 which are sold not only in Trump Tower. There
11 are actually Trump golf shirts. There are Trump
12 sweatshirts. There are Trump hats.

13 There are a lot of different apparel
14 products. And they are sold today. You can buy
15 them online at the Trump golf website. You can
16 buy them in Trump Tower. You can buy them at
17 some of the Trump hotels.

18 And you can buy them in the pro shops
19 at every golf club where they make up -- you
20 know, there is a pretty sizable amount of
21 apparel products. And at those clubs, you've
22 got everything you could possibly imagine --
23 from a golf club with the Trump name on it.

24 Q. Right.

25 A. And a lot of it is -- you got, you

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2 know, equipment, and hats, and golf balls, and
3 everything can you imagine.

4 Q. You also mentioned fragrances.

5 Can you give an example of the use of
6 the Trump mark -- house mark or a derivative --
7 for fragrances?

8 A. Yeah -- so the Trump mark has been
9 used on a fragrance sold by, you know,
10 manufactured by a third party fragrancemaker
11 pursuant to a license deal where Mr. Trump
12 licensed his name and brand. And I believe it's
13 called Empire, which is his fragrance.

14 His daughter, Ivanka Trump, also has
15 her own fragrance -- the name of which escapes
16 me. I think it's called Ivanka -- and through a
17 separate licensing deal of her name brand and
18 likeness.

19 Q. The last category, you mentioned home
20 furnishings.

21 So can you give me an example of the
22 use of the Trump mark -- house mark or
23 derivative -- on home furnishings?

24 A. So over the years, there is a lot of
25 different home-related projects.

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2 There is a line called Trump Home,
3 where the Trump mark is licensed along with I
4 believe some derivative marks to brand a series
5 of home furnishing products.

6 You've got Trump mattresses
7 manufactured by Serta, sold through the country,
8 throughout the world.

9 There are -- Trump Home, Trump
10 mattresses -- I believe there are other home
11 products.

12 There are candles. I think that would
13 sort of fall within the accessory -- home
14 accessory -- there are Trump candles.

15 I'm sure there is more that I'm
16 missing.

17 Q. Who owns -- or who is the owner of the
18 Trump house mark or all these various formative
19 Trump marks?

20 A. Donald Trump.

21 Q. Donald Trump.

22 Why does Mr. Trump personally own the
23 marks?

24 A. For tax planning purposes.

25 I'm not a tax guy -- but, yeah.

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2 Q. Let's talk about the Trump books that
3 you mentioned.

4 A. Sure.

5 Q. You mentioned earlier that the Trump
6 house mark is used prominently on many of Mr.
7 Trumps books.

8 Just speaking about the books
9 generally -- who writes Mr. Trump's books?

10 A. So Mr. Trump either writes them
11 himself or writes them, like, with usually a
12 coauthor, and -- go ahead.

13 (Pause)

14 Q. Are you familiar with his books?

15 A. Yes.

16 He has authored, I believe, more than
17 20 different types of books over the years.

18 I would say the common denominator in
19 all of them is that they are all business books.
20 They are all sort of focused on business,
21 business issues, how to succeed in the business
22 world, how to succeed in real estate, how to
23 negotiate, how to, you know, beat your
24 competitors.

25 You know, all the books have used

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2 his -- the house mark prominently in a number of
3 ways -- either just sort of as when it lists him
4 as the author. That's always prominently
5 displayed, usually with picture. He's usually
6 on the cover -- I mean, on the cover of every
7 book.

8 And a lot of books -- most of the
9 books -- use the Trump house mark with some
10 other sort of title, like: Trump: The Art of
11 the Deal, which was his first book.

12 You are talking about over the last,
13 you know, 20-some-odd years he's written, you
14 know, a lot of books -- 20 books. And they all
15 have been largely successful.

16 Q. You said The Art of the Deal was his
17 first book.

18 Do you know when that was published?

19 A. Early 90's -- '92, I think. That was
20 I think, to date his most successful book.

21 A lot of his books have appeared on
22 the New York Times best seller list.

23 I believe that one was on the New York
24 Times best seller for in excess of, like, 50
25 weeks. Sold like a million copies.

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2 His current book, which came out a
3 week ago, called Crippled America, which
4 features a prominent picture of himself on the
5 cover; his name on the bottom -- excuse me.

6 (Pause)

7 A. Yeah -- his most recent book, which is
8 called Crippled America, came out last week.
9 And he had a book signing.

10 I believe -- I'm told it's on the New
11 York Times best seller list already. He had a
12 book signing last week in Trump Tower, which was
13 supposed to go from 11:00 to 1:00. It wound up
14 going until, like, 4 o'clock. He sat there and
15 signed, you know, a couple thousand books.

16 MS. REED: Mark this as Exhibit 2.

17 (Exhibit 2, Multipage document bearing
18 images (no Bates Nos.), marked for
19 identification)

20 BY MS. REED:

21 Q. I just handed you Exhibit 2.

22 Do you recognize this Exhibit -- feel
23 free to take time to look through the pages.

24 (Pause)

25 A. Yeah -- so I do recognize this. These

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2 are the covers of many of his books.

3 I believe there are more. But this is
4 definitely a representative sample.

5 And as I said, they all -- you know,
6 the common thread is they all use the Trump
7 house mark extensively.

8 Trump: The Art of Deal; Trump: How
9 to Get Rich.

10 So they all have the name Trump -- the
11 Trump house mark -- in the title, as well as,
12 obviously, you know, when it lists the author.

13 Q. So let's go through each of the book
14 covers.

15 So the first one -- can you read the
16 title and then describe how the Trump house mark
17 is being used on the cover?

18 And I'll ask the same question for
19 each of the pages.

20 A. Yeah -- so the title of the book is
21 Trump: The Art of the Deal. The house mark is
22 used to, I would say, establish the brand and
23 gain the attention of the reader.

24 It, you know -- it's used the way it
25 is -- it appears consistent, not only with the

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2 way it appears on a lot of these covers, but
3 also on a lot of Mr. Trump's properties.

4 Q. Can you describe what it looks like --
5 how it appears?

6 A. Yeah -- so the way it appears on
7 Trump: The Art of the Deal and others is, you
8 know, large, thick, gold -- you know, rich
9 gold -- lettering. And that has sort of become
10 the -- that's sort of become synonymous, I
11 think, with Mr. Trump as a business person and
12 as a public figure around the world -- both, you
13 know -- obviously, in the United States for
14 many, many years; internationally as well.

15 It's also this kind of gold -- thick,
16 gold, rich lettering in this sort of font is
17 used prominently on books. It's used
18 prominently on buildings.

19 The building that I work in -- Trump
20 Tower -- if you have been to the front of it on
21 Fifth Avenue, it has very thick, prominent, gold
22 lettering almost identical in font to this. It
23 stands out.

24 It's -- it's, you know, it's become a
25 worldwide tourist attraction. And every day I

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2 leave my building, people take pictures either
3 across the street or right in front -- in front
4 of that gold lettering. That has sort of become
5 part of -- not sort of. It has become part of
6 his worldwide brand.

7 Q. Let's turn to page 2 of Exhibit 2.

8 Can you read the title of this book
9 cover and describe again the use of the Trump
10 mark -- the appearance of it?

11 A. So the book is called: Trump: How to
12 Get Rich: Big Deals from the Star of The
13 Apprentice. And this book was written by Mr.
14 Trump with Meredith McIver, who co-writes a lot
15 of his books.

16 And again, the name -- the Trump house
17 mark is used to sort of -- it's used in big,
18 gold, prominent, thick lettering consistent with
19 how its used in Trump: The Art of the Deal, and
20 other books, and other properties. And it's,
21 you know, sort of done that way to convey, you
22 know, strength, and power and, you know, Mr.
23 Trump's, you know, competitive nature in
24 business.

25 And all these books, as I said before,

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2 are about how to succeed in business, how to --
3 how to, you know, overcome, and beat, and
4 succeed over your competitors.

5 Q. Let's turn to page 3 of Exhibit 2.

6 Again, can you read the title of this
7 book and describe how the house mark appears on
8 the cover?

9 A. The book is called: Trump: The Art
10 of the Comeback. And the name appears very
11 consistent with the other books that we just
12 went through -- large, gold, prominent, thick
13 lettering.

14 Q. Next page -- again, can you read the
15 title of the book and describe how the house
16 mark appears on this cover?

17 A. The book is called: Think Like a
18 Champion. And the Trump name is used
19 prominently to indicate the author, which is
20 Donald Trump. And again, the Trump house mark
21 is used in the same way as the other books --
22 you know, big, thick, gold lettering, the same
23 as on buildings, the same on -- as sales and
24 marketing materials in the United States and
25 around the world.

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2 Q. Can you read the -- do you see on this
3 page that there is sort of a notation in a
4 circle?

5 A. Yeah.

6 Q. Can you read what that says?

7 A. Yeah.

8 It says: An informal education in
9 business and life -- which sort of conveys the
10 subject matter of the book, which is Mr. Trump
11 giving his -- his advice in business and how to
12 succeed in business, how to succeed in life,
13 how to prevail over your competitors and win in
14 business, and life, and negotiating, and
15 business deals.

16 Q. Next page -- again, read the title of
17 the book and how the house mark appears on the
18 cover page of the book.

19 A. So the title of this book is: Think
20 Big and Kick Ass in Business and Life. The
21 Trump house mark appears prominently at the very
22 top in big, thick, prominent letters consistent
23 with how it appears in all the other books.

24 And, again, these are all -- these
25 books all are providing readers with, you know,

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2 tips and advice on how to prevail and succeed in
3 business and in life.

4 Q. For this book, you said the title was:
5 Think Big and Kick Ass.

6 Is that -- then you described the
7 Trump mark.

8 Is the Trump house mark part of the
9 title?

10 Or is that -- how was the Trump mark
11 actually being used for this book?

12 A. I think it's being used in two ways.

13 A lot of his books use the house mark
14 as part of the title. Then they also have
15 the -- they have the Trump name as part of the
16 name of the author.

17 This book has "Trump" along the top.
18 It says: Trump and Bill Zanker,
19 President/Founder of The Learning Annex.

20 It is used -- I would say, in this
21 situation it's being used both as part of the
22 title, no different than Trump: The Art of the
23 Deal.

24 This is really: Trump: Think Big and
25 Kick Ass. And it's also used prominently to

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2 show, you know, that he is involved in the
3 authorship of this book.

4 Q. Okay.

5 Let's turn to the next page of Exhibit
6 2.

7 Can you describe -- read the title of
8 the book and describe how the house mark appears
9 on the cover?

10 A. This book is called: Think Big. It
11 looks to be another version of the prior book.
12 And it is used -- the Trump house mark is used
13 in the exact same way as I described for the
14 prior.

15 Q. Next page?

16 Read the title and describe how the
17 trademark appears?

18 A. This book is called: Trump Strategies
19 for Real Estate: Billionaire Lessons for the
20 Small Investor. And this book is -- again, in
21 this book, you've got the Trump house mark being
22 used prominently in the title consistent with
23 everything we've talked about before. It is
24 another example of using the Trump house mark
25 and having it appear in big, thick, prominent

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2 letters to grab the reader's attention. The
3 lettering is largely similar to the way it's
4 used in all these other books and on various
5 real estate projects and other, you know,
6 licensing products around the world.

7 Trump Tower is the example I keep
8 giving -- sort of very similar to that as well.

9 Q. Next page.

10 Read the title of the book and
11 describe how the house mark is being used on the
12 cover of the book.

13 A. The title is: Trump: Think Like a
14 Billionaire: Everything You Need to Know About
15 Success, Real Estate and Life. It is authored
16 by Donald Trump with Meredith McIver. And the
17 house mark is being used in two ways, again.

18 One is as part of the title of the
19 book: Trump: Think Like a Billionaire. It's
20 also used prominently in gold in, again,
21 prominent, thick lettering as part of the name
22 of the author. And this book -- like all the
23 other books -- sort of is another in the series
24 of business and, you know, books on how to
25 succeed in business, and prevail, and trump your

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2 competition.

3 Q. Okay.

4 The next page, please do the same.

5 Read the title of the book and
6 describe how the Trump house mark is being used
7 on the cover of the book.

8 A. This is called: Trump: Never Give
9 Up: How I Turned My Biggest Challenges into
10 Success. It's written by Donald Trump and
11 Meredith McIver, again. I would say much the
12 same as I said before -- which is its used in
13 two ways.

14 One is part of the title: Trump:
15 Never Give Up. It's also used, you know, to
16 indicate who the author is. And it is, again,
17 used in, you know, thick prominent letters. In
18 this case, it is surrounded by gold. Gold, you
19 know, is sort of a color that Mr. Trump has
20 had -- his brand has become known for around the
21 world.

22 Yeah -- and this book, like the
23 others, is, again, about his big business --
24 business stories from Mr. Trump about his
25 business experiences, how he has prevailed over

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2 other parties in business and succeeded, you
3 know. This one is called: How I Turned My
4 Biggest Challenges Into Success. I think this
5 book actually has a lot of case studies on
6 particular projects that he worked on and how he
7 succeeded in those projects.

8 Q. The next page -- read the title and
9 describe how the Trump house mark appears on the
10 cover of this book.

11 A. This book is called: Trump 101: The
12 Way to Success. It's authored by Donald J.
13 Trump with Meredith McIver. And this book --
14 again the Trump name is used prominently, again,
15 as part of the title and as part of the author.
16 Same thing as before. It's always used in, you
17 know, prominent, thick lettering to grab the
18 reader's attention to let them know that this is
19 a book by Donald Trump. In this case, in the
20 name of the title, it is used also very
21 prominently as before. Again, the gold appears
22 as part of the author's name: Donald J. Trump.
23 Gold, as I said before -- synonymous with his
24 brand.

25 (Pause)

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2 Q. Next page, read the title of the book
3 please, if you can, and describe how the house
4 mark appears on the cover of this book.

5 A. This book is called: Trump: The Way
6 to the Top: The Best Business Advice I Ever
7 Received. The name appears in the title on the
8 cover in the very similar, big, thick, prominent
9 lettering. Though the name Trump is in black,
10 it is surrounded by gold. And it appears in the
11 subtitle: The Best Business Advice I Ever
12 Received is -- it looks to be another shade of
13 gold, consistent with everything I've said
14 before.

15 Q. Next page, describe -- read the title
16 of the book and describe how the house mark
17 appears on the cover of this book.

18 A. The book is called: Trump: Surviving
19 at the Top, Donald J. Trump with Charles --
20 looks like -- Leerhsen. The Trump house mark is
21 used consistent with how I've described it
22 before -- very prominent, thick lettering, both
23 in the name of the title -- Trump: Surviving at
24 the Top -- and also down below in the name of
25 the author.

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2 What stands out to me is in this case,
3 the lettering is very consistent with the type
4 of lettering and the style of lettering that is
5 used on books, properties. It's almost
6 identical to how it appears on the top of -- on
7 the front of Trump Tower, which is the
8 headquarters of The Trump Organization and sort
9 of the building that made Mr. Trump, you know,
10 what he is today.

11 Q. Two more to go.

12 Next one?

13 A. Next book is called: Trump: The Best
14 Real Estate Advice I Ever Received: 100 Top
15 Experts Share Their Strategies. My
16 understanding is this book is a compilation of
17 stories from different successful business
18 people, how they have succeeded in business,
19 offering their strategies, with -- I believe
20 there is a forward of his other -- this includes
21 also stories from Mr. Trump himself. Again, the
22 house mark used very prominently -- very thick
23 lettering at the top, which is where virtually
24 the name appears in all these books as part of
25 the title -- lettering in a font and style very

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2 consistent to everything that we've seen before.

3 Q. The last book -- please read the title
4 and describe how the house mark appears on the
5 cover of this book.

6 A. The book is called: Trump: The Art
7 of Survival, written by Donald J. Trump and
8 Charles Leerhsen. The brand -- the house mark
9 is used as the name of -- part of the name of
10 the book. The lettering is very consistent with
11 what we have seen before -- thick, prominent,
12 bold lettering, you know, right across the top.

13 Again, this is very consistent with
14 how the Trump name and house mark is used in --
15 to mark it products -- real estate products,
16 personal products; used on, you know,
17 business -- on buildings like Trump Tower.

18 Q. So you mentioned some of the books
19 contain the house mark in bold, gold lettering.

20 A. Right.

21 Q. Why does Mr. Trump use gold lettering
22 for some of his books.

23 And you mentioned properties -- some
24 of his properties as well?

25 A. I think gold over the years -- he's

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2 used gold over the years -- from the beginning
3 of his career throughout -- to convey power,
4 strength, to, you know, a sort of aggressive
5 approach to business that has become, you know,
6 sort of his brand -- part of his brand, and
7 synonymous with him, and what people expect from
8 him all over the world.

9 My building, Trump Tower, has -- you
10 know, the entrance is wrapped in gold. And when
11 you come through the front doors, the lettering
12 "Trump Tower" appears very prominently -- much
13 the way it appears in this book. And that is
14 sort of as a sign of strength.

15 It has become, you know -- that sort
16 of way of conveying the brand has become, you
17 know, world known and has made our building a
18 tourist attraction.

19 When you walk into the building the
20 gold -- the gold color is everywhere. It is on
21 the -- called lintels -- the pieces that, you
22 know, as you come in, there are sort of pieces
23 that extend up to the top of the ceiling which
24 divide the window panes.

25 The flooring is -- I believe it's

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2 called bronzino -- which is a gold sort of based
3 marble. It's everywhere. There is gold
4 mirroring in the building. There is a waterfall
5 with -- I believe it has gold behind it. All of
6 the trim throughout the building is gold -- gold
7 in color. If you come up to my office on the
8 26th floor where Mr. Trump sits -- I sit down
9 the hall -- you walk in. It says The Trump
10 Organization in gold. Behind it is sort of a
11 gold panel. There is -- I believe there is a
12 gold couch. Gold is -- is what he, for -- since
13 the beginning of his career, has used to
14 establish his brand as a reflection of sort of
15 the basic pillars on which he operates in the
16 business world, which -- strength, and power,
17 and, you know, a competitive instinct.

18 Q. And you sort of described generally
19 what these books that we went over are about.

20 But can you sort of provide more
21 detail about what the general topic or subject
22 matter is for these various books?

23 A. Yeah -- the books are all sort of
24 business related. They are all on how to
25 succeed in business, how to succeed in life.

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2 From working with Mr. Trump over the
3 past 10 years, I can tell you he is sort of a
4 nonstop guy. He works around the clock. He, you
5 know, is very aggressive in business. He's very
6 aggressive in life.

7 MR. UNDERHILL: Relevancy objection.

8 A. He likes to prevail. He likes to
9 prevail over those who he is on the other side
10 of the table against -- whether it be
11 negotiating, whether it be any kind of deal or
12 project he's working on. And he --

13 MR. UNDERHILL: Objection, relevancy.

14 THE WITNESS: You want to let me
15 finish?

16 Then you can --

17 MR. UNDERHILL: I am sorry. Go ahead.

18 A. -- and the books are all sort of
19 reflective of that insight.

20 The mantra, I would say -- which is to
21 prevail, and always do your best, and do the
22 best you can, and get the best of a deal over
23 those who are adverse to you or your
24 competitors.

25 MR. UNDERHILL: Objection, relevancy,

1 ALAN GARTEN, ESQ. - DIRECT - BY MS. REED

2 narrative.

3 BY MS. REED:

4 Q. Can you describe the type of consumers
5 that buy these books?

6 A. I think it sort of runs the gamut.

7 I know his books -- like The Art of
8 the Deal -- is used in -- as part of
9 educational, for educational purposes in
10 universities. It's his first book, his most
11 well-known book. It's regarded by many as, you
12 know, sort of a business Bible. So you've got
13 people buying his books for educational purposes
14 to use as parts of education.

15 You've got the general business
16 world -- people who are interested in business,
17 people starting out in business, people seeking
18 his advice in business -- yeah.

19 Q. You mentioned The Art of the Deal was
20 his first book and most popular book?

21 A. Yeah -- he's had a lot of business --
22 he's had a lot of successes with his books to
23 date. The Art of the Deal to this day remains
24 sort of his most well-known book, and a New York
25 Times best seller 50-plus weeks, over a million

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2 copies sold -- very successful book.

3 Q. Okay.

4 MS. REED: I want to enter another
5 exhibit into evidence.

6 (Exhibit 3, Multipage document bearing
7 images (no Bates Nos.), marked for
8 identification)

9 BY MS. REED:

10 Q. Mr. Garten, you mentioned use of the
11 Trump house mark on various properties in gold
12 lettering.

13 Can you describe -- or, sorry -- do
14 you recognize what was handed over to you as
15 Exhibit 3?

16 And if so, can you describe what is
17 contained in this exhibit?

18 A. This appears to be a sort of snapshot
19 from the Trump website -- or a link to the Trump
20 website -- which is for -- looks like it's
21 dedicated to the building of Trump Tower.

22 And these are the letters I was
23 referring to in the sort of font and gold
24 styling that I was referring to earlier.

25 Q. You are reading the first page of this

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2 Exhibit 3, correct?

3 A. Yes, page 1 of Exhibit 3.

4 Q. Can you turn to page 2?

5 A. Yes.

6 Q. Can you describe what this page shows?

7 A. This is a snapshot from the website
8 for the Trump Taj Mahal hotel and casino in
9 Atlantic City. Again, you've got the Trump name
10 and lettering on the upper-left corner of page 2
11 in gold consistent with what we have talked
12 about before.

13 Q. Turn to page 3 -- or actually let's
14 keep turning to the page that reads: Trump
15 Entertainment Resorts at the top of the page.

16 Can you describe what this shows?

17 A. This is a link -- this is a snapshot
18 from a website. Appears to be from the Trump
19 Entertainment Resorts website.

20 Trump Entertainment Resorts is a
21 publicly traded company that operates and owns
22 various casinos Atlantic City, including the
23 Trump Taj Mahal.

24 Q. Can you describe the use of the Trump
25 house mark in connection with Trump

1 ALAN GARTEN, ESQ. - DIRECT - BY MS. REED

2 Entertainment Resorts?

3 A. The Trump house mark is used
4 prominently as part of the sort of marketing and
5 promotion of the Trump Taj Mahal. The house
6 mark appears not only on the building but also
7 on -- all the sales and marketing -- including
8 on this website.

9 And it is sort of the face of, you
10 know, sort of -- the house mark is sort of the
11 face or brand associated with the Taj Mahal
12 project.

13 And as you can see from the picture,
14 gold is sort of everywhere on the building
15 itself, along the trim. And on the website,
16 there is different sort of grading shades of
17 gold in the lettering and highlights.

18 Q. Next page -- can you identify what
19 that page shows?

20 A. This is a snapshot from a website for
21 Trump International Realty. Trump International
22 Realty is the brokerage -- real estate
23 brokerage -- arm of The Trump Organization.
24 This particular snapshot shows a picture of
25 Trump International Hotel in Las Vegas.

1 ALAN GARTEN, ESQ. - DIRECT - BY MS. REED

2 The Trump house mark is used
3 prominently in the name Trump International
4 Realty in the same similar lettering and also on
5 the top of Trump Hotel in Las Vegas. The Trump
6 house mark appears across the top in, you know,
7 highlighted, lit-up, thick, gold lettering.

8 Q. Turn to the next page of Exhibit 3 and
9 identify what that page shows?

10 A. This is a link -- this is, rather, a
11 snapshot from a website for Trump National Golf
12 Club in Philadelphia. And the Trump name
13 appears on this along with the Trump crest
14 prominently as part of the name of Trump
15 National Golf Club. Again, you see gold
16 throughout. The Trump name also appears sort of
17 below in the upper-left corner, just to I think
18 affiliate itself back with The Trump
19 Organization.

20 Q. Turn a couple pages. It is the page
21 that shows Trump International Hotel & Tower logo.

22 Can you first tell us what Trump
23 International Hotel & Tower is?

24 And then describe the appearance of
25 the logo?

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2 A. Trump International Hotel & Tower is
3 a -- is the name brand and registered trademark
4 for the line of Trump hotels which are part of
5 the Trump Hotel Collection. Trump International
6 Hotel & Tower is sort of the base name for all
7 of the hotels.

8 So there is Trump International Hotel
9 & Tower Chicago, Puerto Rico, Hawaii.

10 Other hotels use just Trump -- I
11 believe Trump International Hotel. They use
12 sort of, you know, derivations of that.

13 It's always used or frequently -- it's
14 always -- it always appears in sort of big thick
15 lettering and most frequently appears in gold.

16 Q. How does it appear in this
17 particular -- on this page in Exhibit 3?

18 A. Consistent with that -- which is sort
19 of big, thick lettering and in gold.

20 Q. The last page of Exhibit 3 -- can you
21 identify what this logo is and describe how it
22 appears?

23 A. This is the logo and name for Trump
24 Park Avenue, which is the former Delmonico
25 Hotel, which Mr. Trump converted to residential

1 ALAN GARTEN, ESQ. - DIRECT - BY MS. REED

2 condominium, maybe 10 to 15 years ago. And it's
3 called Trump Park Avenue. And this is the
4 Trump -- the picture of the name of the hotel --
5 not the hotel -- the residential condominium and
6 the crest associated with it.

7 THE WITNESS: Can we take, like, a
8 two-minute break?

9 MS. REED: Sure.

10 MR. UNDERHILL: As long as you like.

11 (Recess from 11:13 a.m. to 11:24 a.m.)

12 BY MS. REED:

13 Q. So we just talked before the break
14 about Mr. Trump's books. And you explained that
15 they relate to business advice and education.

16 Are there any other goods and services
17 that Mr. Trump, or the organization, offer under
18 the Trump house mark relating to business,
19 education or advice?

20 A. There was Trump University, which was
21 a program -- sort of an educational program --
22 for people wanting to learn about business. And
23 that was principally owned by Mr. Trump and
24 under Mr. Trump's guidance and direction; and
25 used the Trump house mark as, you know,

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2 obviously as in the name of it itself and also
3 as part of the sales and marketing efforts.

4 In addition, Mr. Trump from time to
5 time conducts lectures around the country --
6 around the world, I should say -- on business
7 issues. It's either business related or -- it's
8 basically a combination of business and sort of
9 motivational speaking.

10 And his -- the Trump house mark along
11 with his image are used to market and promote
12 and advertise those lectures.

13 Kind of all I can think of.

14 Q. Switching gears -- earlier you
15 testified concerning your role in connection
16 with trademark policing -- in terms of policing
17 the brand.

18 Can you explain as part of your
19 responsibilities to police the brand what types
20 of actions you've taken over the years in
21 connection with the Trump brand?

22 A. So the policing and enforcement of the
23 Trump brand is sort of divided between what we
24 do in-house and what we do through outside
25 counsel -- like Hughes Hubbard, other firms.

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2 And both in-house and outside, we work
3 together and to take steps to enforce and
4 protect and police the use of the brand.

5 That can run the gamut from sending
6 cease-and-desist letters, to filing WIPO actions
7 over domain names -- W-I-P-O actions -- to
8 taking actions with the US PTO -- whether it be
9 filing oppositions to other marks being filed
10 and engaging in sort of full-blown, you know,
11 trademark infringement litigation or opposing
12 others trying to file marks -- sort of
13 everything.

14 Q. How do you become aware of marks that
15 you may want to potentially oppose?

16 A. We -- a couple ways.

17 We have -- through outside counsel, we
18 use monitoring services to monitor the filings
19 of trademarks, to monitor the filings of
20 registrations of domain names. We do some -- we
21 have outside counsel do that.

22 We also do some of those things
23 in-house.

24 When we are notified as to a filing,
25 we will then review it internally. We will have

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2 outside counsel review it. We will then sort of
3 caucus and get together and decide what the best
4 course of action is in each particular case.

5 Q. How did you become aware of the
6 applicant's trademark -- Trump Your
7 Competition -- that's at issue in this
8 proceeding?

9 A. I was notified by counsel -- trademark
10 counsel, or intellectual property counsel.

11 Then we took steps to file opposition.

12 MS. REED: I'd like to enter another
13 exhibit into evidence. It is Exhibit 4.

14 (Exhibit 4, Single-page document
15 bearing image (no Bates No.), marked for
16 identification)

17 BY MS. REED:

18 Q. Mr. Garten, do you recognize the
19 document that was handed to you marked as
20 Exhibit 4?

21 A. Yes.

22 This is a picture of Trump Your
23 Competition, which is the application for the
24 mark that we are opposing.

25 Q. Do you recall when you became aware of

1 ALAN GARTEN, ESQ. - DIRECT - BY MS. REED

2 this trademark?

3 A. When I was notified by counsel of the
4 original application filing by the respondent.

5 Q. How would you describe the logo that
6 appears in Exhibit 4?

7 A. Well, in the name Trump Your
8 Competition, the name "Trump" is at the top. It
9 is featured prominently in lettering that is
10 highly consistent with the type and style and
11 font of lettering that is used by the Trump
12 organization and Mr. Trump to reflect his --
13 well, first of all, let me take a step back.

14 It's usually the name Trump, which is
15 our Trump house mark.

16 Second it's being used in a way -- in
17 a style of lettering and color -- that is
18 synonymous with my client and his business
19 endeavors around the world.

20 It is consistent, I would say, in
21 every respect with the way the name Trump
22 appears on many -- most, if not all, of Mr.
23 Trump's books.

24 It is consistent with the way it
25 appears on many of Mr. Trump's most well-known

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2 buildings, including Trump Tower, and many
3 others.

4 It -- not -- is the font style
5 consistent? Not just is the font style
6 consistent, but the coloring itself -- the
7 gold -- is generally associated with Mr. Trump
8 and his business interests.

9 And the gold is used on this Exhibit 4
10 much in the same way that it's used on his
11 books, and on his properties, and golf courses,
12 and on a lot of his business interests.

13 Even the sort of gradient -- the
14 change in coloring -- is consistent with what
15 I've seen on -- in the Exhibit 2 -- examples of
16 the book covers.

17 And it's also consistent with what
18 I've seen over the years in the way the Trump
19 house mark is used to market various projects
20 and products.

21 MS. REED: I'd like to hand you the
22 last exhibit, which is Exhibit 5.

23
24
25

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2 (Exhibit 5, Three-page document

3 bearing heading on first page:

4 <http://www.trumpyourcompetition.com/> (no Bates

5 No.), marked for identification)

6 BY MS. REED:

7 Q. Can you identify what this exhibit

8 appears to be to you?

9 Look through the pages and take some
10 time if you need.

11 (Pause)

12 A. This is -- this consists of a series
13 of screen shots from the Trump Your Competition
14 website: Trumpyourcompetition.com.

15 I can't say the exact dates that
16 appeared on the Internet.

17 But I know at one point it did.

18 And this is an advertisement for the
19 services that are being offered under the Trump
20 Your Competition name, which --

21 Q. What's your understanding of those
22 services that are being offered under the Trump
23 Your Competition mark?

24 A. Well, it's -- my understanding is it
25 is -- it is both business advice and

1 ALAN GARTEN, ESQ. - DIRECT - BY MS. REED
2 consulting on how to advertise on the Internet
3 and other, you know, methods of social media.

4 And, you know, it's basically an
5 educational -- it's both a business consulting
6 and educational sort of program.

7 And it is using, you know, the Trump
8 name -- the Trump house mark -- to, I believe,
9 mislead consumers into believing that this
10 business enterprise is associated with the Trump
11 organization and Donald Trump.

12 And I'm noticing here -- which is not
13 on Exhibit 4 -- is that even the way "Trump" is
14 used on page 1 of Exhibit 5, where it says:
15 Trump Your Competition -- not only is the
16 lettering consistent with the style of lettering
17 and the color consistent with the way the Trump
18 name -- the house mark -- is often used --
19 frequently used over the last, you know, 20-plus
20 years -- but it also has even -- I can see on
21 this copy -- lines going through the back, which
22 is frequently used by the Trump organization and
23 its affiliated companies when using the name.

24 This, to me, represents a straight
25 ripping off of my client's intellectual property and

1 ALAN GARTEN, ESQ. - DIRECT - BY MS. REED

2 mark.

3 And not only that, but he is selling
4 business advice -- marketing, advertising
5 advice -- which is a line of business that my
6 client is well-known for -- either through
7 books, speeches, or courses like Trump
8 University.

9 So -- I don't know. When I see this,
10 I just -- to me it speaks loudly of someone
11 trying to trade off my client's marks.

12 Q. Just to turn back to Exhibit 4 -- you
13 described the appearance of the mark,
14 particularly the lettering "Trump" in gold.

15 Can you read the full mark that
16 appears -- full logo that appears on this page
17 and explain why this is concerning to you and
18 your client?

19 A. Sure.

20 It says: Trump Your Competition.

21 I already described how the Trump name
22 is used.

23 Then it says: Dominate, decimate,
24 destroy.

25 While I can't say those are exact

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL
2 words that, you know, my clients would use in
3 their sales and marketing, it's certainly
4 consistent with a style of active and aggressive
5 business strategies. And it's consistent with
6 the sort of overall mantra that my client
7 conveys through his books and lectures and what
8 he has become known for -- which is a successful
9 and aggressive businessperson.

10 MS. REED: I don't have any further
11 questions.

12 So I just want to move to introduce
13 the Exhibits 1 through 5 into evidence.

14 MR. UNDERHILL: My objection:
15 Relevancy, lack of foundation for all exhibits.

16 MS. REED: Mr. Underhill, do you want
17 to cross-examine the witness?

18 Yes. Okay.

19 So we are going to switch seats.

20 (Pause)

21 CROSS-EXAMINATION

22 BY MR. UNDERHILL:

23 Q. Hello, Mr. Garten.

24 A. Hi.

25 Q. Thanks for attending. I really

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 appreciate it. I know you are a very busy man.

3 A. No problem.

4 Q. General counsel -- that means, of
5 course, that you are a licensed attorney in New
6 York?

7 A. Correct.

8 Q. Do you consider yourself to be a
9 trademark attorney?

10 A. A trademark attorney?

11 I do now.

12 Q. You have filed oppositions yourself,
13 personally, as the attorney of record.

14 MS. REED: Objection as to relevancy.

15 A. I may have.

16 I can't recall offhand.

17 Q. You were the attorney of record on
18 this case for a while?

19 A. Yes.

20 Q. Have you been the attorney of record
21 in other trademark options?

22 A. I believe I am now.

23 Q. And you understand that Donald J.
24 Trump is the opposer in this case?

25 A. Yes.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. Is he aware of this case?

3 A. Generally, he's aware of -- yes, he
4 would be aware of this case -- sure.

5 Q. So whomever filed this case as
6 attorney of record in the beginning had Mr.
7 Trump's authorization for filing the lawsuit?

8 A. Absolutely --

9 MS. REED: Object.

10 To the extent that it calls for
11 disclosure of any attorney-client privileged
12 communications, you can answer the question.

13 But don't disclose any communications
14 between counsel and Mr. Trump.

15 A. Yes.

16 Q. As an attorney, you understand that
17 certain questions I ask you regarding Mr.
18 Trump -- his opinion about things, his
19 motivation, his interest in this case -- could
20 rightfully be objected by legal counsel as being
21 something that would breach attorney-client
22 privilege.

23 A. Yes.

24 (Pause)

25 Q. Okay.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 You mentioned during the direct
3 examination that Mr. Trump owns hundreds of
4 marks.

5 A. Yes.

6 Q. Is that true?

7 MS. REED: Objection, misstates --
8 misstates the testimony.

9 BY MR. UNDERHILL:

10 Q. Can you restate what you said
11 regarding that?

12 A. I don't remember exactly what I said.

13 But certainly he does -- he is the
14 owner of hundreds of marks.

15 Q. Okay.

16 Regarding any of those registered
17 marks, do any of them claim gold -- the color
18 gold -- as a feature of that mark?

19 A. I wouldn't know offhand.

20 Q. Okay.

21 A. I would assume that's available in
22 public records.

23 Q. Sure.

24 I will disclose I haven't found it.

25 So I'm assuming that it's true that he has no

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 marks that are registered that gold --

3 MS. REED: Objection to testimony
4 being given by opposing counsel.

5 MR. UNDERHILL: Okay.

6 MS. REED: That's not a question.

7 Q. Is it you personally who made the
8 decision for this case to be filed?

9 A. I don't recall.

10 Q. As general counsel, you oversee
11 litigation like this?

12 A. Yes.

13 Q. What does that mean?

14 Do you manage the litigation?

15 A. Yes.

16 Q. And trial counsel would report to you?

17 A. Yes.

18 Q. Are you aware that a gentleman by the
19 name of Anthony Joseph Seruga previously had a
20 registered mark that was registration No.
21 3095214?

22 And the mark was Trump Your
23 Competition. And it expired and went dead at
24 some point.

25 Do you know that?

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 A. Not as I sit here.

3 Q. You testified about your internal
4 protocols and systems where you would become
5 made aware of marks that you might want to
6 contemplate opposing.

7 Is that true?

8 A. Yes.

9 Q. So does that system automatically pull
10 for your attention any application that would
11 have the word "Trump" in it?

12 A. Generally, yes.

13 Q. So, then, it would be likely that this
14 particular application that was filed on
15 February 5, 2005, for Trump Your Competition may
16 have come to your attention.

17 A. I started working there in December of
18 2006.

19 Q. So this predates that.

20 Who was handling trademark litigation
21 for the Trump organization then?

22 A. The prior general counsel.

23 Q. Who was?

24 A. It would have been a gentleman by the
25 name of, probably, Bernie Diamond.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. You are not sure about the identity of
3 your predecessor?

4 A. No, I know who the predecessor is.
5 You asked me who would have been
6 handling it.

7 Q. Before you became attorney of record
8 on this case, who was the attorney of record
9 prior to that?

10 A. I don't know.
11 I'm sure that's available in the
12 public records, too.

13 Q. You don't know who you fired?
14 I'm assuming you terminated the
15 attorney on the case.

16 MS. REED: Objection, assumes facts
17 not in evidence.

18 A. It may have been Fross Zelnick law
19 firm.

20 Q. I think it was, yes.

21 MS. REED: Objection to testimony by
22 opposing counsel.

23 Q. Did you review the pleas on this case
24 when it was filed -- the actual notice of
25 opposition?

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 A. I may have. I don't remember one way
3 or the other. I review a lot of papers.

4 Q. Would you allow an opposition to be
5 filed without reviewing the pleas prior to them
6 being filed?

7 A. Under my oversight?

8 No.

9 (Pause)

10 A. I just don't have any specific
11 recollection one way or the other.

12 Q. Have you reviewed the notice of
13 opposition that was filed by James D.
14 Weinberger?

15 A. Briefly.

16 Q. Did you review it prior to it being
17 filed?

18 MS. REED: Asked and answered.

19 Q. When did you first review it?

20 A. I don't recall when I first reviewed
21 it.

22 I've reviewed it since.

23 But I don't recall the first time I
24 reviewed it.

25 Q. Do you have an understanding about

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL
2 what the causes of action are within the
3 petition?

4 A. I would have to take another look at
5 it.

6 Q. Do you recall that James D. Weinberger
7 left the case -- he resigned at some point --
8 and you replaced him as attorney of record?

9 A. Yes.

10 Q. Then at some point, you resigned and
11 you were replaced by this firm -- Natasha Reed
12 and --

13 A. Yes.

14 Q. -- Lena Saltos?

15 A. Yes.

16 Q. Do you agree that, during the course
17 of this litigation, Donald J. Trump has engaged
18 in no discovery requests?

19 A. As I sit here, I'd have to go and look
20 over the file.

21 Q. As the general counsel who is
22 supervising this litigation, wouldn't it be a
23 normal course for you to review if discovery
24 requests were being issued on your behalf of
25 your client or not?

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 A. Yes.

3 Q. Exhibit 4, I think -- is this Exhibit
4 4?

5 The application that --

6 A. I'm sorry.

7 You want me to look at Exhibit 4?

8 Q. Yes, please.

9 Can we agree this is Exhibit 4?

10 A. Yeah.

11 Q. You have Exhibit 4 in front of you?

12 A. Yes, I have it in front of me.

13 Q. Okay.

14 Do you know whether or not the
15 application that Mr. Trump is opposing claims
16 any color at all as a feature?

17 A. I don't know that as I'm sitting here,
18 no.

19 I would have to read the papers and
20 see what the application is.

21 Q. Do you know whether or not this
22 application that Mr. Trump is opposing is a
23 so-called "typed drawing mark"?

24 A. I don't know.

25 Q. Do you know what a "typed drawing

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 mark" is?

3 A. No.

4 Q. Do you know that some marks are simply
5 the words with no color, or drawing, or any
6 artwork claimed as part of the feature?

7 A. Not sure I understand the question.

8 Q. I beg your pardon?

9 A. I'm not sure I understand what you are
10 asking me.

11 Q. Okay.

12 Regarding the application that is
13 being opposed by Mr. Trump, in terms of the
14 application itself, and any and all elements of
15 that mark as described in the application --
16 what is it specifically about the application
17 that you are objecting to?

18 A. Whatever I'm objecting to I believe
19 would be set forth in our papers.

20 Q. So you don't independently recall what
21 the objection would be?

22 A. It's not a memory test.

23 You are asking me -- if you want to
24 show me the document, I can read it into the
25 record.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 But, no, I don't independently
3 memorize every document we filed.

4 Q. The Trump house mark -- that would be
5 essentially limited to the word "Trump."

6 Am I understanding that correctly?

7 A. I would agree with that, yeah.

8 Q. Okay.

9 Do you understand what the term
10 "dilution" means regarding trademark law?

11 A. Yeah, generally.

12 I thought you were going to be asking
13 me factual questions and not my background --
14 testing me on terms in trademark law.

15 Q. Do you understand what "dilution"
16 means regarding trademark law?

17 A. I have some understanding of what
18 "dilution" means.

19 Q. What evidence do you have, counselor,
20 if any at all, that there has been dilution in
21 the marketplace regarding my client's mark?

22 MS. REED: Objection, calls for a
23 legal conclusion.

24 A. I would sort of refer that question to
25 my outside counsel.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 (Pause)

3 Q. What evidence do you have -- or that
4 you know about -- regarding confusion in the
5 marketplace regarding the two marks -- any
6 actual confusion?

7 A. Well, what I can say is that, having
8 overseen Mr. Trump's trademark portfolio and
9 enforcement, I would say -- based on my
10 experience -- anyone who encountered your
11 client's attempted use of my client's mark would
12 have reason to believe that your client's
13 business is associated somehow -- or
14 affiliated -- with my client's business.

15 Q. That's your opinion.

16 A. Yes -- my legal opinion.

17 Q. Okay.

18 Has anybody phoned your office who saw
19 this and either thought it was involving Mr.
20 Trump?

21 Or even complaining in any way about
22 it to you personally?

23 A. No one has phoned me personally.

24 But I can't say for the thousands of
25 other people who work for the company that they

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 have not received phone calls.

3 Q. Do you remember what the goods and
4 services description is for my client's mark?

5 A. No.

6 Q. Does Mr. Donald Trump own any
7 registered marks that are specifically limited
8 to the field of marketing?

9 A. I don't know offhand.

10 Q. Do you understand the usage of the
11 word "Trump" in my client's mark is a verb
12 rather than a noun?

13 A. I don't know how your client -- I
14 can't say how your client is intending to use
15 it.

16 I can tell you what I believe it
17 appears he's doing -- which is to use the name
18 "Trump" as a playoff of the Trump house mark --
19 my client's Trump house mark.

20 Q. That's your opinion.

21 A. That's my opinion.

22 But my opinion determines how and when
23 to take action in situations when I believe
24 others are attempting to infringe on my client's
25 rights.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. Does Mr. Trump -- Donald Trump -- does
3 he own any registered marks where the word
4 "Trump" is specifically being used as a verb?

5 A. I don't know. I can't think of -- I
6 don't know. I mean, I think that would be sort
7 of -- I don't know offhand.

8 I'm not sure I understand the
9 question, actually.

10 Q. Can you think --

11 A. I'm just -- I'm sorry.

12 I was going to say: I think you are
13 asking -- sounds to me it's more of an opinion
14 question.

15 I mean, I imagine people can sort of
16 differ as to when it is being used as a verb and
17 not.

18 I'm not sure I understand the
19 question.

20 (Pause)

21 Q. The registered trademark:
22 Consciousness Trumps All -- would you agree the
23 use of the word Trumps in there is used as a
24 verb rather than a noun?

25 A. Hard for me to sort of answer that

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 question in the abstract.

3 I'm not familiar with that
4 registration. Not really sure what you are
5 reading from and -- is that a registration --
6 how it's being used -- I'd have to see how it's
7 being used.

8 Q. Okay.

9 A. Sort of -- I'm trying -- I'm really
10 trying to answer your question, just not sure I
11 can -- that question.

12 Q. Can you think of any sentence in the
13 English language where "trump" is used as a verb
14 and tell me?

15 A. I'm familiar with trump being used in
16 the -- as part of a card game, like a trump
17 card. I have seen that.

18 I know that certainly the word "trump"
19 can be used as a word. I recognize that.

20 I'm not sure of specific examples.

21 But I'm not aware of any other
22 situation where it's being used as a verb in
23 commerce in a way that makes it appear as if it
24 is associated with Donald Trump.

25 Q. Approximately how many Trump marks --

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2 that is, marks being filed not by your client,
3 but by somebody else in the world -- how many
4 "Trump:" marks come for your review filed as
5 applications every year -- just approximately?

6 A. Are you asking me how many times I'm
7 alerted as to the filing of a mark --
8 application for a mark using the name "Trump"?

9 Q. Using the word "trump" -- but, yes.

10 A. Really sort of differs year-to-year.
11 Now probably more than normal.

12 Q. It's picked up, hasn't it? -- probably
13 because of his candidacy as president, I would
14 imagine?

15 A. Everything has picked up.

16 Q. Okay.

17 I'm not going to submit this as an
18 exhibit. I'm just going to offer it to you to
19 refresh your memory.

20 This is a list of recent marks that
21 have been filed that use the word "Trump."

22 MS. REED: I'm sorry.

23 Objection, lack of foundation.

24 There has been no establishment that
25 Mr. Garten has -- needs a refresher or does not

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 remember something.

3 Is there an outstanding question

4 that's pending?

5 MR. UNDERHILL: I haven't had a chance

6 to ask it.

7 THE WITNESS: Maybe ask me the

8 question first, then show me what you want to

9 refresh my recollection.

10 BY MR. UNDERHILL:

11 Q. Let's assume this is a list of recent

12 marks that have been filed at the trademark

13 office as applications.

14 Tell me if there is any in there that

15 you would think you would want to object -- just

16 based on the words alone.

17 A. I'm not prepared to do that.

18 MS. REED: I'm going to object.

19 This is asking for legal conclusions

20 on whether something is infringement.

21 This document is not being submitted

22 as evidence.

23 And it's just improper.

24 MR. UNDERHILL: Counsel, you have made

25 your objection.

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2 Are you instructing your client not to
3 respond?

4 MS. REED: No, I'm not. He can
5 answer.

6 But I'm just making my objection for
7 the record.

8 A. Here is what I can tell you: I can
9 tell you that when -- we take the protection and
10 enforcement of my client's brand extremely
11 seriously. We invest a lot of money in its
12 efforts. It is his brand -- we believe to be
13 one of his most valuable assets.

14 And we don't cavalierly look at a list
15 and throw darts at it and pick which ones we are
16 going to, you know, oppose and which ones we are
17 not.

18 This is a process that isn't done
19 sitting, you know, in a conference room in two
20 minutes.

21 It's something that's discussed
22 internally. It's something that is consulted
23 with outside counsel on. And a decision is
24 made.

25 It's not -- we are not a factory. We

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2 don't do this like a factory. We are very
3 selective.

4 And we tried to only oppose those that
5 we have a good faith belief are going to
6 infringe on our client's rights; and those that
7 we believe are not, we don't.

8 Q. Then how can you explain, Mr. Garten,
9 that you authorized an opposition against the
10 word mark "iTrump," which had a goods and
11 services description of computer software for
12 use in producing sound?

13 A. I don't have to. I don't have to.

14 That's a decision that's made in
15 conjunction with my client after, you know --
16 I'm not going to sit here and justify other
17 legal actions I've taken. Because to do so
18 would be disclosing confidential client --
19 attorney-client communications.

20 Q. So I'd have to ask Mr. Trump
21 personally why he authorized that.

22 A. No, because if I was sitting next to
23 him I would object to that. Because that's a
24 conversation -- that's a decision that's made in
25 consultation with legal counsel and based on the

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 advice of legal counsel.

3 Q. Did you authorize personally authorize
4 the filing of that opposition?

5 A. I really don't recall one way or the
6 other.

7 I am familiar with it.

8 But I don't recall if it was me or
9 someone else who authorized it.

10 MS. REED: Can I just state for the
11 record, Mr. Underhill, if you have exhibits or
12 documents you would like to show Mr. Garten,
13 that's perfectly fine -- and introduce them as
14 evidence; then provide me a copy; and we could
15 go through them.

16 That might make it --

17 MR. UNDERHILL: Thank you.

18 BY MR. UNDERHILL:

19 Q. Do you remember the iTrump case at
20 all?

21 A. Vaguely.

22 Q. Do you remember how it resolved?

23 A. I don't.

24 Q. Do you remember whether that was a
25 successful opposition?

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 A. I don't.

3 MR. UNDERHILL: Let's go back to
4 Exhibit No. 4, which I'm showing you.

5 THE WITNESS: Yeah, I have it.

6 BY MR. UNDERHILL:

7 Q. Is my client still using his mark in
8 this fashion as shown in this color picture?

9 A. I don't know.

10 Q. Do you know when he first started
11 using the mark like this?

12 A. Not offhand.

13 Q. Do you know if he's used the mark in
14 other ways differing from this?

15 A. I don't know one way or the other.

16 Q. So the only information that you had
17 regarding his usage of the mark is embodied in
18 Exhibit No. 4 -- is a printout that was made
19 from the Internet on one specific day?

20 A. I don't know that when this was
21 printed out. I don't know how long it appeared
22 on the Internet. I don't know if your client is
23 using it in other ways that we're not aware
24 of -- or I'm not aware of.

25 Maybe your client is using it exactly

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2 the same way 100 different times. Maybe he has
3 another website -- instead of called Trump Your
4 Competition, it's called something else, but it
5 has this. This is information you would have,
6 not me.

7 (Pause)

8 A. I'm aware of him using it either
9 currently or in the past having tried to use it
10 this way.

11 And to me, this is a sort of per se
12 violation of my client's trademark rights,
13 because he's clearly trying to play off of my
14 client's brand.

15 I'm sure you disagree.

16 Q. Do you understand, Mr. Garten, that
17 during the course of the plaintiff's discovery
18 period, the plaintiff could have called anyone
19 who works at my client's -- my client is a
20 corporation -- anyone who works at that
21 corporation, including the president, to ask --
22 to be asked questions regarding the manner of
23 usage for this mark?

24 A. I'd have to consult with my legal
25 counsel about that.

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2 Q. Well you are an attorney.

3 You know what discovery is, right?

4 A. I am an attorney. And I do know what
5 discovery is, yes.

6 Q. You know what -- you are familiar with
7 all the general tools of discovery as a lawyer,
8 aren't you?

9 A. I am.

10 Q. You know what requests for admissions
11 are?

12 A. I do.

13 Q. And you know what requests for
14 documents are -- to produce documents?

15 A. Yes.

16 Q. You know what a deposition is?
17 Yes?

18 A. I know of all these tools.

19 Q. Interrogatories -- you know what those
20 are?

21 A. Yes.

22 Q. And you sit here today unaware -- I
23 mean, you are making assumptions. I understand
24 that.

25 But if -- you are unaware of the

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL
2 actual history of use of this mark by my client
3 today, aren't you?

4 A. I know of this use.
5 If there are other uses, I'm not
6 necessarily aware of them.

7 My counsel may be aware of them.

8 But I know of this use.

9 (Pause)

10 (Discussion off the record)

11 BY MR. UNDERHILL:

12 Q. Mr. Garten, has Mr. Trump ever used
13 his house mark in any way that has caused fraud?

14 A. No.

15 Q. Has he used the house mark in any way
16 that has been deceitful?

17 A. No.

18 Q. The Trump University matter in San
19 Diego -- are you familiar with that class action
20 litigation?

21 A. Extremely.

22 Q. Are you a practicing attorney on that
23 case in some way?

24 A. I'm not counsel of record on that
25 case, if that's what you are asking.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. Have you read the complaint on that
3 case?

4 A. I have.

5 Q. Would you agree that the complaint
6 concerns some fairly serious allegations
7 regarding Mr. Trump?

8 A. We certainly take it seriously.

9 Q. Do you understand we are referring to
10 the case which could be called Art Cohen versus
11 Donald J. Trump?

12 A. Yes.

13 Q. A class action filed in the Southern
14 District of California?

15 A. There's probably nobody more familiar
16 with that case than me.

17 Q. Is Mr. Trump familiar with it?

18 A. Yes, I keep Mr. Trump apprised of
19 developments in that case, consistent with my
20 ethical duties as a lawyer.

21 Q. Because he is named as an individual
22 defendant in that case.

23 So it's a serious matter, isn't it?

24 A. I consider all litigation serious
25 matters.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. Is it your understanding that the
3 cause of action relates to a alleged violation
4 of 18 U.S.C. § 1962(c) -- as in Charley?

5 MS. REED: I'm going to object to a
6 line of questioning concerning this litigation
7 in terms of relevancy.

8 BY MR. UNDERHILL:

9 Q. Do you understand -- do you remember
10 the question I just asked you?

11 A. Yes, I am familiar with that.

12 Q. And are you aware that -- and would
13 you agree that a brief description of the cause
14 of action could be described as mail and wire
15 fraud under the RICO statute?

16 A. In the Art Cohen case, yes.

17 Q. In the Art Cohen case.

18 A. Yes, those are allegations in the
19 complaint -- emphasis on the word "allegations."

20 Q. Well, it hasn't gone to trial, of
21 course. Nothing has been proved.

22 Isn't that correct?

23 A. The only thing that -- of significance
24 that's happened in that case is that the class
25 action in its companion case was decertified as

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 to damages.

3 So there is actually no longer a class
4 action in the companion Makaeff case.

5 And the Cohen case is just slightly
6 behind schedule.

7 Q. You are referring to the Makaeff case,
8 right?

9 That's an Oregon case, isn't it?

10 A. No.

11 Q. Where was that filed in?

12 A. San Diego.

13 Q. That's a San Diego case, too?

14 Okay.

15 But Art Cohen versus Donald J. Trump
16 hasn't been dismissed as a case yet.

17 A. No.

18 MS. REED: I'm going to reiterate my
19 objection to all line of questioning concerning
20 this Cohen case as it relates to the claims in
21 the case, apart from just use of the Trump
22 University mark.

23 So any questions and answers that are
24 elicited about the substance of the wire fraud
25 case are completely irrelevant to this

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL
2 opposition proceeding.

3 BY MR. UNDERHILL:

4 Q. As an attorney, do you know what the
5 phrase "unclean hands" means?

6 A. I have a view of it.

7 Q. You remember studying that in law
8 school, maybe?

9 A. Right -- like unclean hands would be
10 filing and using a mark that's similar -- that
11 trades off of the brand of someone else -- yeah.

12 Like your client? Yes. Unclean
13 hands.

14 It goes both ways.

15 Q. I like you, Mr. Garten.

16 It's actually, is it not -- I mean
17 let's take you back to law school -- so long
18 ago, for me anyway.

19 Unclean hands has to do equity.

20 Do you remember that?

21 (Pause)

22 A. I do remember that.

23 MS. REED: Objection to relevancy.

24 (Pause)

25 Q. There was a legal case in New York,

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 wasn't there? -- regarding Trump University --

3 A. There is one.

4 Q. It's still going on.

5 A. Pending.

6 (Pause)

7 Q. I think you were in the media talking
8 about it, weren't you, at some point --

9 A. I was.

10 Q. Yeah.

11 (Pause)

12 Q. The Attorney General Schneiderman --
13 that's his name? -- filed the case?

14 A. I thin he -- Schneiderman -- Eric
15 Schneiderman.

16 Yes, he did.

17 Q. So Trump University -- the State of
18 New York, had maybe a little, tiny legal issue
19 about using the word "university"?

20 Is that correct?

21 A. Yes. They did.

22 Q. Because it was unlicensed by the
23 state.

24 A. It's a long, complicated answer --
25 none of which is relevant to this.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. Well, thank you for making the
3 objections for your counsel. But --

4 A. Look, everything you need to know
5 about the Trump University cases -- whether it
6 be in San Diego or in New York -- are publicly
7 available in the court records, in the appeal
8 briefs, and on, and on, and on.

9 Could probably talk about that case
10 for a week.

11 It's not going to really get us
12 anywhere for this.

13 MS. REED: I'm going to reiterate any
14 objection to questioning concerning whether the
15 Trump University cases -- whether it's in San
16 Diego or New York.

17 I object that it's irrelevant.

18 MR. UNDERHILL: I'm going to be asking
19 several questions of Mr. Garten regarding Trump
20 University and related litigation.

21 Why don't we just give you a standing
22 objection to that?

23 MS. REED: Standing objection.

24 Absolutely -- for all questions and any answers
25 elicited concerning the San Diego litigation or

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL
2 the New York litigation.

3 They are irrelevant to this
4 proceeding.

5 MR. UNDERHILL: Do you feel you have
6 made your objection as comprehensively as you
7 would like?

8 MS. REED: I have.

9 But I might reiterate it again,
10 depending on the questioning -- the line of
11 questioning.

12 MR. UNDERHILL: You have a standing
13 objection. There is no need for you to remind
14 me.

15 MS. REED: Mr. Garten -- I'm sorry,
16 Mr. Underhill -- please just proceed with your
17 questions.

18 MR. UNDERHILL: Thank you.

19 (Pause)

20 BY MR. UNDERHILL:

21 Q. Jeffrey Goldman -- is he a private
22 attorney?

23 Or he is a member of the Trump
24 organization?

25 A. He is a private attorney.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. Thank you.

3 And you are familiar with a person by
4 the name of Supreme Court Justice Cynthia S.
5 Kern?

6 A. Yes, I know -- I mean, not
7 personally -- but I know Judge Kern, yes.

8 Q. This case that I'm referring to, I
9 should identify for you: People v. Trump
10 Initiative, New York State Supreme Court, New
11 York County, No. 451463/2013.

12 Sir, on that case, isn't it true that
13 the judge ruled that Donald Trump was personally
14 liable for operating a for-profit investment
15 school without the required license?

16 MS. REED: Objection, irrelevant.

17 A. I'd have to read the decision.

18 Q. You don't remember if Mr. Trump was
19 found liable for something important like that?

20 A. It's the way you described it.

21 I'd have to actually read her
22 decision.

23 Certainly you don't need my opinion on
24 that. Just read the decision yourself.

25 Q. Have you ever given testimony at a

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 deposition before?

3 A. I have.

4 Q. Have you sat for standard discovery
5 depositions?

6 A. Yes.

7 I've taken them as well.

8 Q. The lawsuit in New York that I was
9 referring to -- that was filed by the Attorney
10 General -- is it your opinion -- would you agree
11 with this? -- the New York Attorney General Eric
12 Schneiderman accused Mr. Trump of misleading
13 more than 5,000 people who paid between \$1,495
14 and \$35,000 to learn Mr. Trump's real estate
15 investment techniques?

16 True?

17 MS. REED: Objection, irrelevant.

18 A. I would have to refer you to the
19 complaint.

20 And whatever the complaint says I
21 would agree is what he has alleged -- I'm
22 sorry -- petition.

23 (Pause)

24 Q. Let's -- give me the two-sentence
25 explanation to your mother about this case if

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL
2 you are sitting down for Thanksgiving and she
3 wanted to know what it was about.

4 A. I'm really not going to answer this
5 question.

6 MR. UNDERHILL: Are you instructing
7 him not to answer?

8 THE WITNESS: No, it's -- why don't
9 you just try rephrasing it?

10 Why don't you rephrase your question?

11 MS. REED: Rephrase -- rephrase.

12 BY MR. UNDERHILL:

13 Q. Mr. Garten, are you aware that, if you
14 refuse to answer a question in a proceeding like
15 this, that could be construed against your
16 cause?

17 A. Are you aware that asking irrelevant,
18 harassing questions could get you sanctioned?

19 Q. Are you aware that I'm the person who
20 asks questions and you are the person who
21 answers them?

22 MS. REED: Okay. So I want to just
23 stop here.

24 Mr. Underhill, if you could just
25 rephrase your question concerning Mr. Garten's

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL
2 understanding of the allegations in the New York
3 case.

4 Simple as that. Just rephrase the
5 question. And Mr. Garten -- I will instruct Mr.
6 Garten to answer the question.

7 (Pause)

8 BY MR. UNDERHILL:

9 Q. Are you threatening me with sanctions,
10 Mr. Garten?

11 MS. REED: Object --

12 A. I am asking if you are aware of it,
13 just like you asked me if I was aware of it.

14 MS. REED: -- okay, you are badgering
15 the question.

16 I'm asking just to rephrase the
17 question, please, and he will answer the
18 question.

19 Q. Are you threatening me with sanctions,
20 Mr. Garten?

21 A. I am not threatening you.

22 I'm asking you if you are aware.

23 You asked me if you remember if me not
24 answering your question would -- I don't
25 remember how you said it.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 But if you ask your question again, I
3 will do my best to answer it.

4 MS. REED: Mr. Reporter, can you
5 please read back Mr. Underhill's last question
6 to Mr. Garten concerning the New York case?

7 (Whereupon the following question was
8 read back:

9 "Q. Give me the two sentence
10 explanation to your mother about this case if
11 you are sitting down for Thanksgiving and she
12 wanted to know what it was about?")

13 MS. REED: Mr. Underhill, can you just
14 rephrase that question?

15 A. I can answer that question.

16 I would describe it as the attorney
17 has filed a baseless case against my client in
18 an attempt to garner publicity. That's how I
19 would describe it. That's in one sentence.

20 Q. How would you describe the Art Cohen
21 versus Donald J. Trump case to your mother --
22 same manner?

23 A. If I was sitting with my mother at
24 Thanksgiving, I would say to her that a class
25 action law firm whose former principal once went

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL
2 to jail has filed a baseless case against my
3 client, which we are winning, and I believe we
4 will ultimately prevail on -- either on summary
5 judgment or trial. That's how I would tell it
6 to my mother.

7 MS. REED: Can we take a short break?

8 MR. UNDERHILL: Sure.

9 (Recess from 12:23 p.m. to 12:31 p.m.)

10 BY MR. UNDERHILL:

11 Q. Has Mr. Trump -- Donald Trump -- ever
12 used his house mark to defraud or deceive the
13 public?

14 A. No.

15 Q. But he's being accused of that in Art
16 Cohen versus Donald Trump, right?

17 A. I don't believe so, no.

18 Q. Well, he's being accused of mail and
19 wire fraud under the RICO statute in that case.

20 A. I don't believe there is any
21 allegation that he's using his house mark for
22 that purpose.

23 Q. Trump University -- "Trump" is a
24 portion of that mark.

25 A. Yes.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 Q. When Mr. Trump created Trump
3 University -- which you've testified that he
4 owns most of -- he was using his famous name as
5 part of that business, wasn't he?

6 A. Yes.

7 Q. And in this case of Cohen versus
8 Trump, under the RICO statute, he's being
9 accused of engagement in racketeering.

10 A. I believe that's correct.

11 Q. Do you know what "racketeering" means?

12 A. I would probably defer to someone who
13 is more of an expert in that area of law.

14 Q. As an attorney, are you familiar with
15 18 U.S.C. 1962 subsection C?

16 A. Familiar with it, to some degree.

17 Q. Have you ever worked as a U.S.
18 Attorney?

19 Deputy U.S. Attorney?

20 A. No.

21 Q. Do you know how long my client has
22 been using this mark in commerce?

23 A. I don't.

24 Q. Which means you don't know how long
25 there has been concurrent use of the Trump marks

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 in my client's mark.

3 A. I don't.

4 Q. And you have no actual evidence of
5 confusion in the public in commerce between the
6 two marks.

7 Is that right?

8 A. Me, personally?

9 I can't think of anything.

10 But it doesn't mean it doesn't exist,
11 or it's not in the possession of my lawyers.

12 Q. Do you understand that you are the
13 sole witness in Mr. Trump's case-in-chief?

14 A. Yes.

15 Q. Do you understand that all evidence to
16 benefit Mr. Trump on this case is going to flow
17 through you?

18 MS. REED: Objection as to legal
19 conclusions.

20 A. I would have to consult my lawyer.

21 Q. Okay. That's fine.

22 You understand this is the trial,
23 right?

24 A. Yes.

25 Q. Okay.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 And you are the witness in the trial?

3 A. Yes.

4 Q. And you are witness for Donald J.

5 Trump?

6 A. Yes.

7 Q. And you understand that this is your

8 time as a plaintiff for your initial

9 case-in-chief.

10 Do you understand that?

11 A. I would have to consult with my

12 counsel as to that.

13 Q. Do you know what "rebuttal evidence"

14 is?

15 A. I do.

16 Q. Do you understand that the plaintiff

17 has the opportunity to have a rebuttal case as

18 well as the initial case-in-chief?

19 A. Yes.

20 Q. Are you aware, Mr. Garten, that under

21 the law, misrepresentations, fraud and/or deceit

22 used in relation to a trademark by its owner can

23 cause him to lose that mark?

24 MS. REED: Object again, as it calls

25 for a legal conclusion.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 A. I would have to sort of research that
3 and consult with my counsel to give you a
4 definitive answer.

5 Q. Okay.

6 Mr. Garten, an important element under
7 trademark law is that the public should be
8 protected from fraud and deceit.

9 Do you agree with that?

10 A. I would have to research that and see
11 where that -- you know, I would have to research
12 that and consult with my legal counsel.

13 Q. Here we have Mr. Trump -- very famous
14 man, very successful businessman, no doubt about
15 it -- extolling people to pay for attendance at
16 a so-called university where they didn't get
17 what they paid for.

18 Assuming that was true -- and I know
19 that you don't agree with that -- assuming that
20 was true, do you think that would be a wrong --
21 something?

22 A. I don't understand your question.

23 Q. Okay.

24 Should Mr. Trump use his marks to
25 commit fraud?

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 A. I don't think anyone should commit
3 fraud -- period.

4 Q. We're not talking about everyone.

5 We are talking about Mr. Trump.

6 Would Mr. Trump -- should Mr. Trump
7 use his marks to commit fraud?

8 A. I really don't know how to answer your
9 question.

10 I don't think anyone should use their
11 marks -- I can answer your question.

12 No one should commit fraud. That is
13 bad.

14 So I would say: Whether it's Mr.
15 Trump or anyone else, fraud is bad. People
16 shouldn't do it.

17 (Pause)

18 MS. REED: I'm going object again.

19 I apologize for laughing.

20 But I'm laughing because this line of
21 questioning about fraud is completely
22 irrelevant.

23 MR. UNDERHILL: Let's go off the
24 record --

25 MS. REED: -- and --

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 MR. UNDERHILL: -- for your speech.

3 MS. REED: -- no, I'm not giving a
4 speech. Actually, it should be on the record.

5 It's completely irrelevant. And it's
6 redundant, really.

7 So, I mean, hopefully we can move on
8 from this line of questioning.

9 If you have something to ask Mr.
10 Garten about concerning the use of the Trump
11 mark for the goods and services that we've
12 discussed, or licensing, or trademark
13 registrations, or policing the brand -- as
14 opposed to talking about the state claims with
15 respect to wire fraud and RICO, because they are
16 irrelevant.

17 MR. UNDERHILL: Are you done?

18 MS. REED: I'm done.

19 MR. UNDERHILL: I would like to object
20 that counsel has repeatedly made speaking
21 objections.

22 May I proceed now?

23 MS. REED: Yes, you may.

24 (Pause)

25

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 BY MR. UNDERHILL:

3 Q. The Trump University mark is canceled,
4 isn't it, Mr. Garten?

5 A. I don't know.

6 Q. Isn't it true there were two separate
7 marks for Trump University?

8 A. I don't know.

9 (Pause)

10 Q. Are there any of the Trump marks that
11 are identical in nature to the applicant's mark?

12 A. I don't know offhand.

13 (Pause)

14 THE WITNESS: Do you have an estimate
15 on how much longer you are going to be?

16 MR. UNDERHILL: I'm probably done.
17 I'm going through just to see if I have anything
18 else.

19 THE WITNESS: If there is anything
20 else that you want to ask me, or you feel
21 appropriate to ask anyone else that I work with,
22 I would just ask you to ask me those questions.

23 I can try to answer and provide you
24 all the information to the best of my ability.

25 (Pause)

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 BY MR. UNDERHILL:

3 Q. I assume it would be your preference
4 that Mr. Donald Trump not be burdened to testify
5 in this case.

6 Is that right?

7 A. I don't think there is anything that
8 you may need to ask him that I can't answer. So
9 I'm sort of offering myself to sit here and try
10 to answer all your questions -- any question you
11 may have -- whether it be for me or anyone else
12 with whom I work, including my client, now so as
13 not to burden him.

14 Q. Your client being Mr. Trump?

15 A. Yeah -- or any other member of his
16 family.

17 Q. Are you willing to waive
18 attorney-client privilege?

19 A. Of course not.

20 (Pause)

21 Q. I'd have to assume that Mr. Donald
22 Trump, your client, is not willing to -- since
23 he's the owner of the privilege, he's not
24 willing to waive the privilege in exchange for
25 him not being present pursuant to subpoena.

1 ALAN GARTEN, ESQ. - CROSS - BY MR. UNDERHILL

2 A. He will not be waiving the privilege.

3 Q. Of course.

4 A. But I don't think that stops you from
5 asking me questions that you think -- any
6 question you may have, regardless to whom you
7 think it's most appropriate to ask it to.

8 MS. REED: I understand that's your
9 opinion.

10 THE WITNESS: It's 12:45. You know,
11 if you have other questions I don't want you
12 holding back questions. You should ask me them,
13 so as not to burden others.

14 MS. REED: Can we just go off the
15 record for a moment?

16 (Discussion off the record)

17 MR. UNDERHILL: Your client wants to
18 put something on the record?

19 MS. REED: Yes.

20 I had offered to allow you to ask any
21 question you want of Mr. Garten.

22 If you feel you have not gotten the
23 response that you need, or he doesn't know
24 something, and then we can discuss who might
25 know that information.

1 ALAN GARTEN, ESQ.

2 So I'm offering Mr. Garten now as
3 someone who can answer -- or try to answer all
4 of your questions that you have.

5 MR. UNDERHILL: I've exhausted the
6 questions I wish to ask Mr. Garten.

7 I have questions that I wish to ask
8 the plaintiff directly.

9 THE WITNESS: Do you want to at least
10 try to ask me the questions to see if I can
11 answer them?

12 And then you can determine whether or
13 not you believe my answers are sufficient?

14 Because otherwise it would be sort
15 of -- I think it would be unnecessarily --
16 certainly burdensome -- to hold questions back
17 to wait until you can ask someone else, when you
18 don't even know if I'm capable of answering as
19 his lawyer.

20 MR. UNDERHILL: I'm not going to argue
21 a motion here in a deposition.

22 THE WITNESS: I'm just asking a
23 question.

24 MR. UNDERHILL: I'm not going to
25 answer questions.

1 ALAN GARTEN, ESQ.

2 I'm not going to the argue motion in a
3 deposition.

4 THE WITNESS: So you are refusing to
5 ask me questions that you think are more
6 appropriate for Mr. Trump.

7 MR. UNDERHILL: I'm not going to
8 answer questions, Mr. Garten. I'm not a witness
9 here.

10 THE WITNESS: Okay. But you are not
11 disputing that. Okay.

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ALAN GARTEN, ESQ.

MS. REED: Okay. Thank you.

* * *

E N D O F P R O C E E D I N G

Time noted 12:48 p.m.

* * *



ALAN GARTEN, ESQ.

Subscribed and sworn to before me

this 16th day of December, 2015.



NOTARY PUBLIC

My Commission expires:

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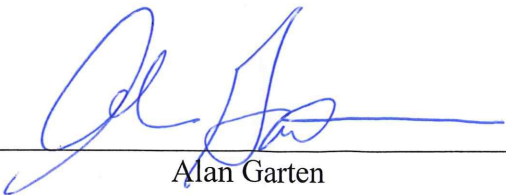
Case Name: Donald J. Trump v. Trump Your Competition, Inc.
Opposition Number: 91217618
Deponent: Alan Garten
Deposition Date: November 12, 2015

I, ALAN GARTEN, declare under penalty of perjury under the laws of the United States of America, that I have read the foregoing deposition transcript and that, to the best of my knowledge, said deposition transcript is true and accurate, with the exception of the following corrections listed below:

<u>PAGE</u>	<u>LINE(S)</u>	<u>CURRENTLY READS</u>	<u>CHANGE TO</u>	<u>REASON</u>
6	11-12	attorney-client privilege	attorney-client privileged	Misspelling
8	3	it's derivative marks	its derivative marks	Misspelling
8	22-23	and worked	and I worked	Mistranscription
10	21	and the we have	and then we have	Misspelling
11	4	filing options	filing oppositions	Mistranscription
11	5-6	policing the registration of the application registration of domain names	policing the registration of domain names	Mistranscription
11	10	we worked with	we work with	Misspelling
12	22	spoken	spoke	Misspelling
16	2-3	hotel development, hotel development	hotel development	Mistranscription
20	20-21	develop condominium building	develop a condominium building	Mistranscription
21	18	So a lot of that goes into that	So a lot of what goes into that	Misspelling
24	10	you now, 60	you know, 65	Mistranscription
24	19	it's traditionally a is U.S. -based	it's traditionally a U.S.- based	Mistranscription
25	24	So you mentioned about the company	So you mentioned the company	Mistranscription
26	21	there is countless	there are countless	Mistranscription
27	21	Yeah	You	Mistranscription
28	7	also casino	also a casino	Mistranscription

<u>PAGE</u>	<u>LINE(S)</u>	<u>CURRENTLY READS</u>	<u>CHANGE TO</u>	<u>REASON</u>
29	13	develops produces	develops, produces	Mistranscription
33	10-11	There is actually Trump golf shirts.	There are actually Trump golf shirts.	Mistranscription
33	11-12	There is Trump sweatshirts.	There are Trump sweatshirts.	Mistranscription
33	12	There is Trump hats.	There are Trump hats.	Mistranscription
33	13-14	There is a lot of different apparel products.	There are a lot of different apparel products.	Mistranscription
35	12	There is candles.	There are candles.	Mistranscription
38	14	4:00 o'clock	4 o'clock	Misspelling
38	22	Do you recognize Exhibit	Do you recognize this Exhibit	Mistranscription
39	3	there is more	there are more	Mistranscription
39	22	establish and -- the brand	establish the brand	Mistranscription
39	25	appears is consistent	it appears consistent	Clarification, Mistranscription
43	12	how to you succeed	how to succeed	Mistranscription
45	8	how transcribe	describe how	Mistranscription
46	24	books and how to	books on how to	Mistranscription
52	20	gold. The gold color is everywhere.	gold -- the gold color is everywhere.	Mistranscription
54	4	round	around	Misspelling
59	20	It is page that	It is the page that	Mistranscription
64	9	Was notified	I was notified	Mistranscription
67	25	a business advice	business advice	Mistranscription
81	22-23	a legal conclusions	a legal conclusion	Misspelling
86	4	"Trump: marks come for your review	"Trump:" marks come for your review	Misspelling
88	11	serious	seriously	Mistranscription
95	8	serious	seriously	Mistranscription
96	4	18 U.S.C. § 1962 C	18 U.S.C. § 1962(c)	Misspelling
99	24-25	of none of which	none of which	Mistranscription
103	20	, and	And	Misspelling

Executed: New York, New York
December 16, 2015


Alan Garten

Sworn to before me this
16th day of December, 2015.



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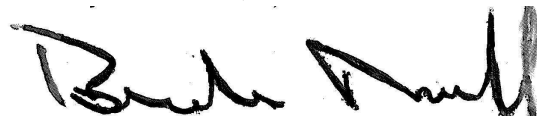
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I, BRANDON RAINOFF, a Federal Certified
Realtime Reporter and Notary Public within and for the
State of New York, do hereby certify:

That ALAN GARTEN, ESQ., the witness
whose deposition is hereinbefore set forth, was duly
sworn by me and that such deposition is a true record
of the testimony given by the witness at 10:08 a.m. on
November 12, 2015, at the offices of Hughes Hubbard &
Reed LLP, One Battery Park Plaza, New York, NY 10004 in
the presence of Rod Underhill, Esquire, Attorney for
Applicant Trump Your Competition, Inc.

I further certify that I am not related to any
of the parties or counsel for any of the parties to this
action by blood or marriage, and that I am in no way
interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my
hand this 17th day of December, 2015.

A handwritten signature in black ink, appearing to read 'Brandon Rainoff', is written over a horizontal line.

BRANDON RAINOFF, FCRR, RMR, CRR

Notary for the State of New York #01RA6011914

Expiration date: 08/17/2018

Int. Cl.: 37

Prior U.S. Cls.: 100, 103 and 106

Reg. No. 2,232,052

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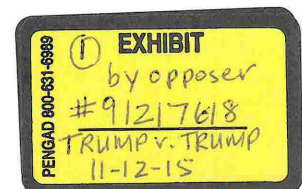
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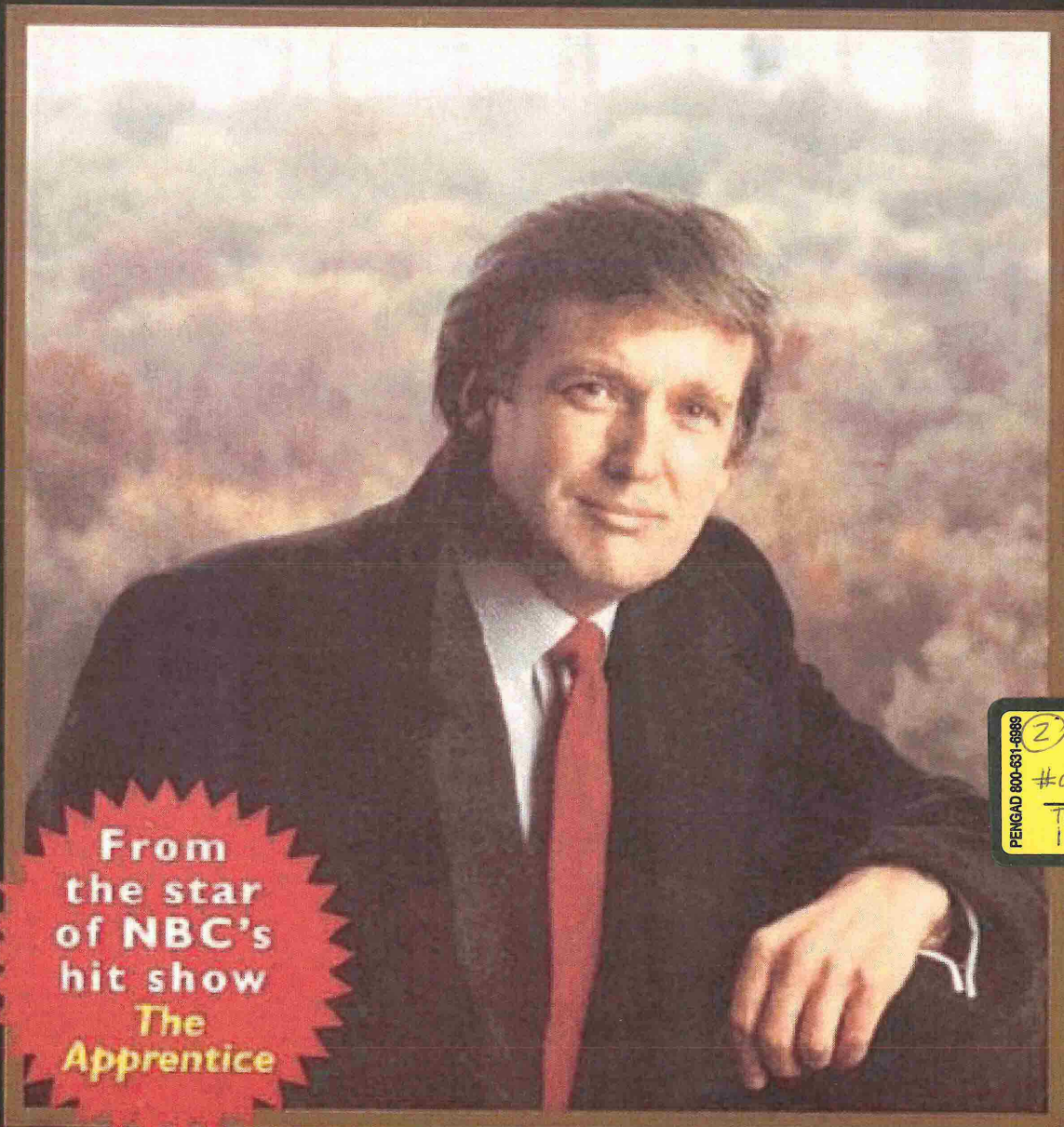
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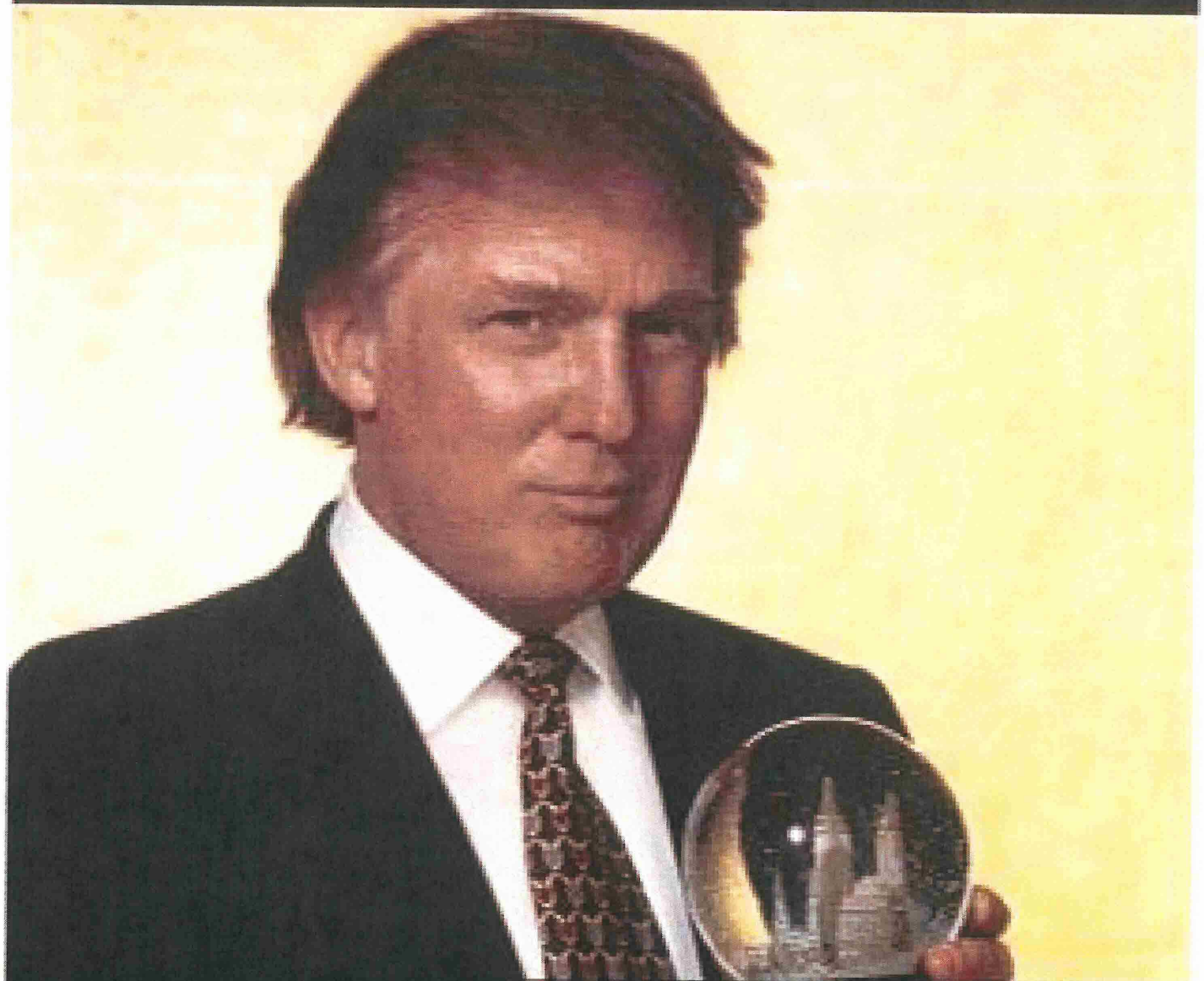
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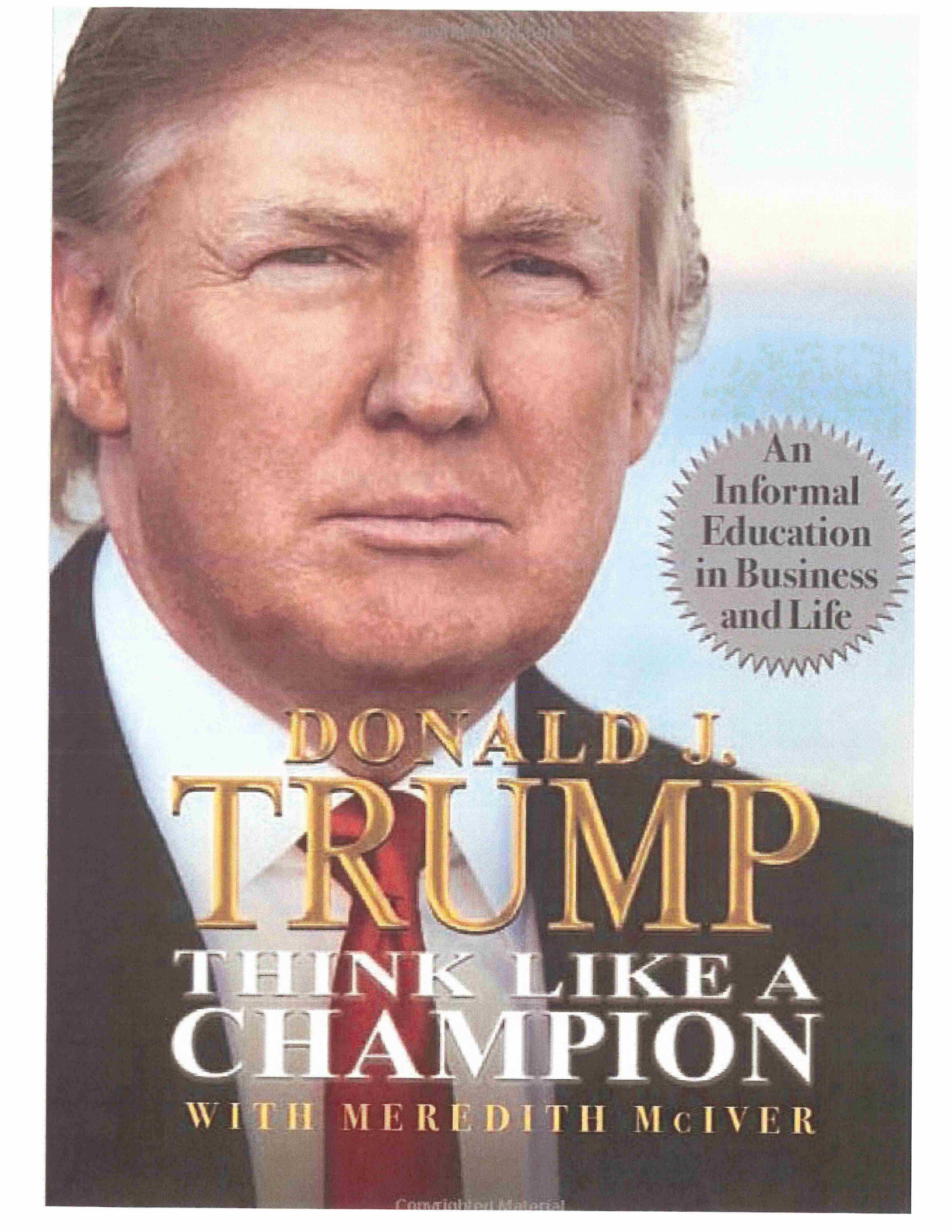
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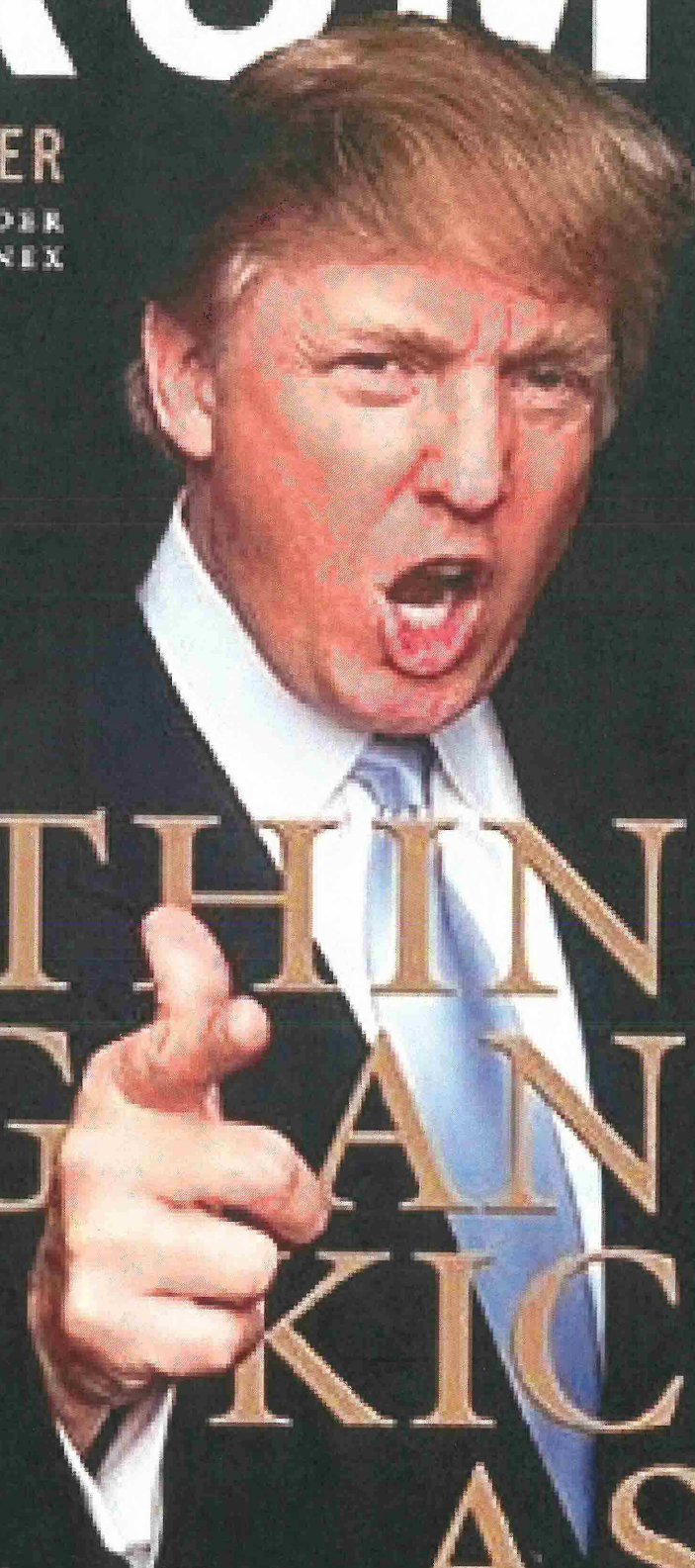
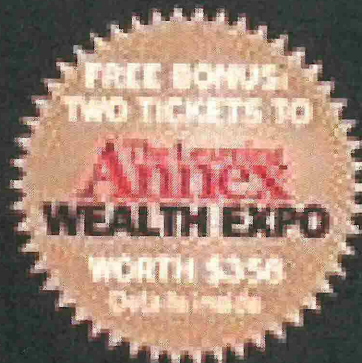
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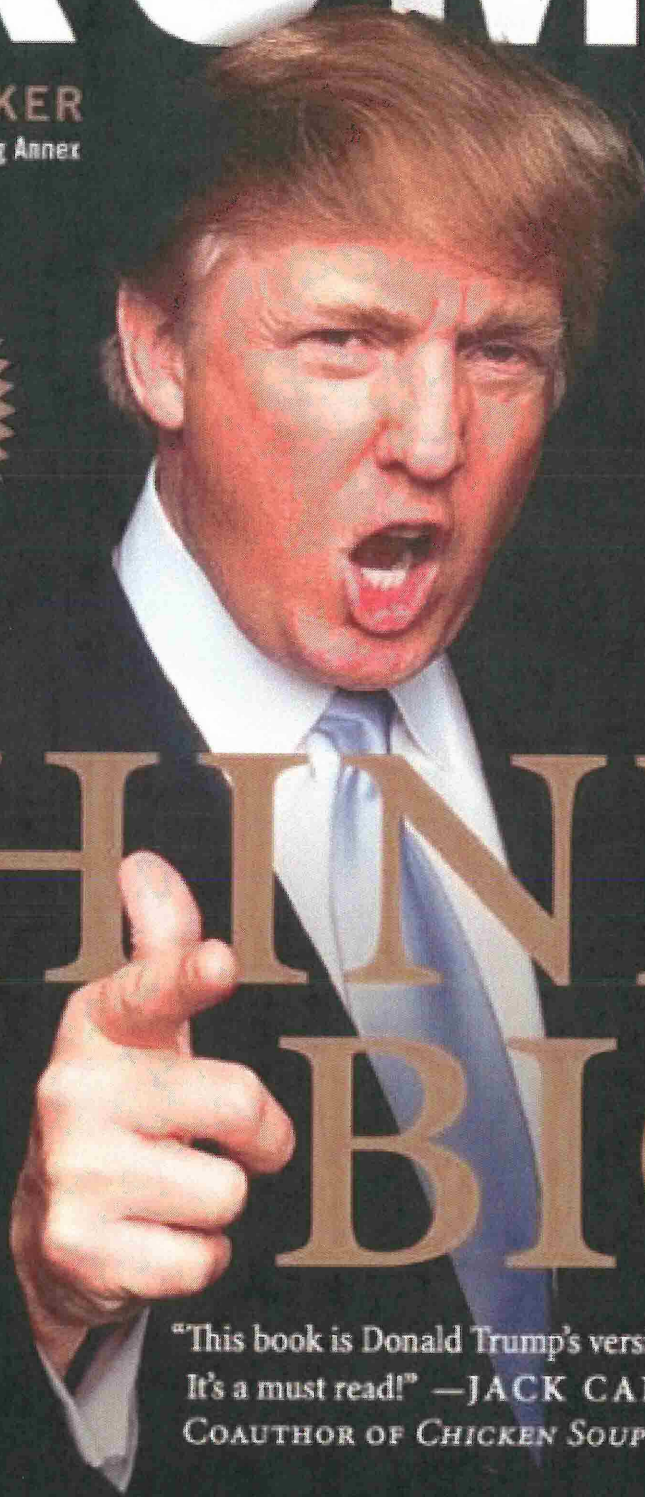
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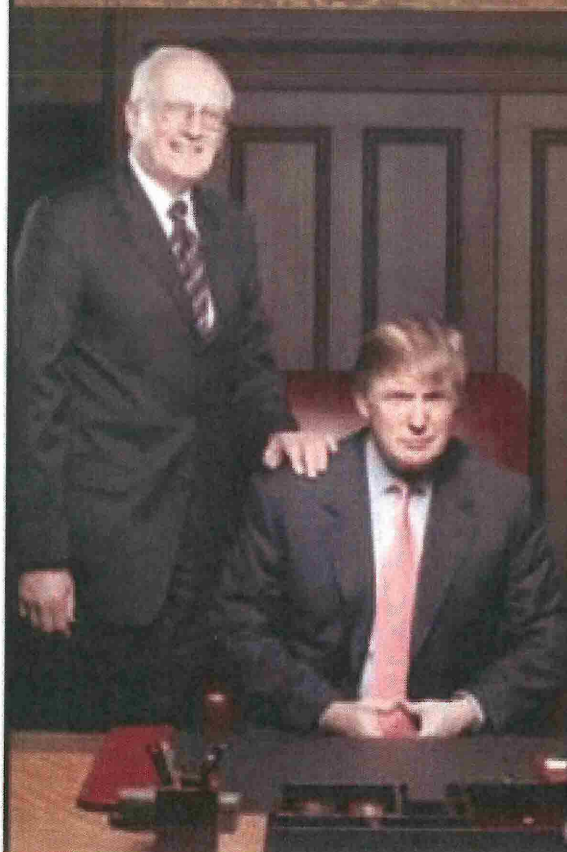
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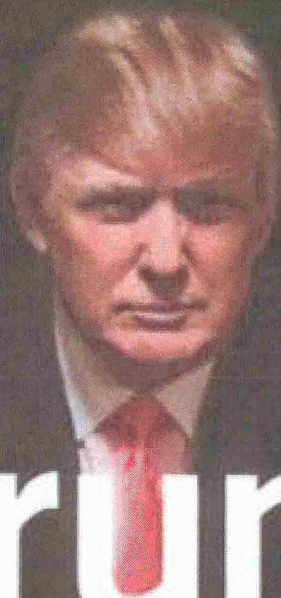
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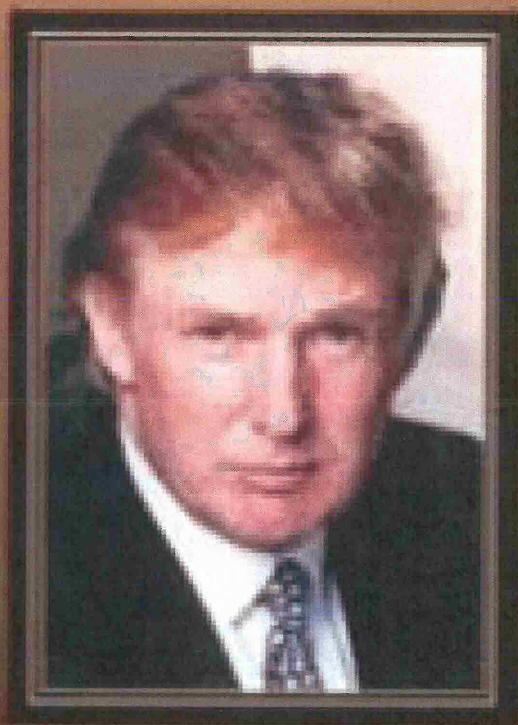
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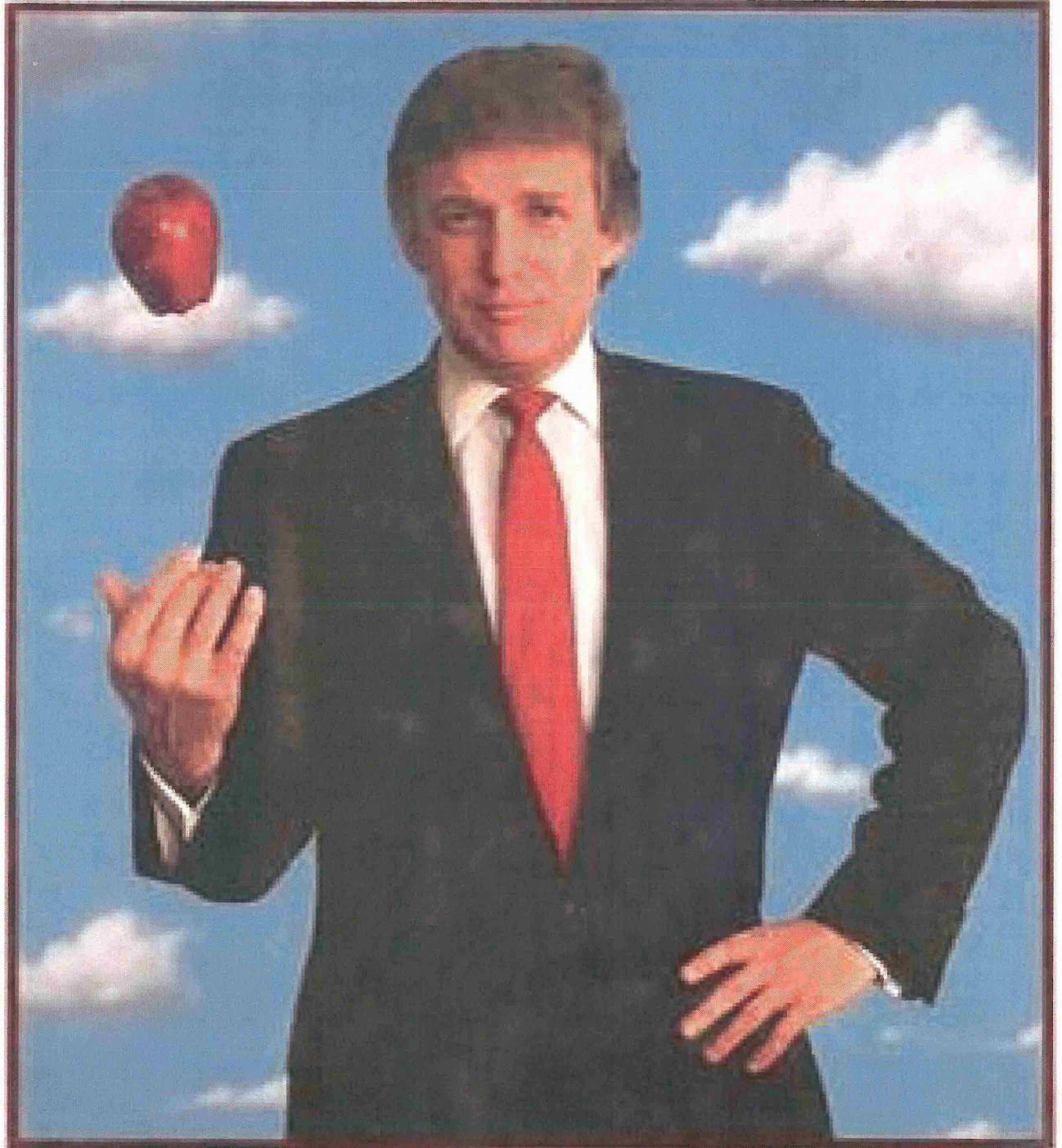
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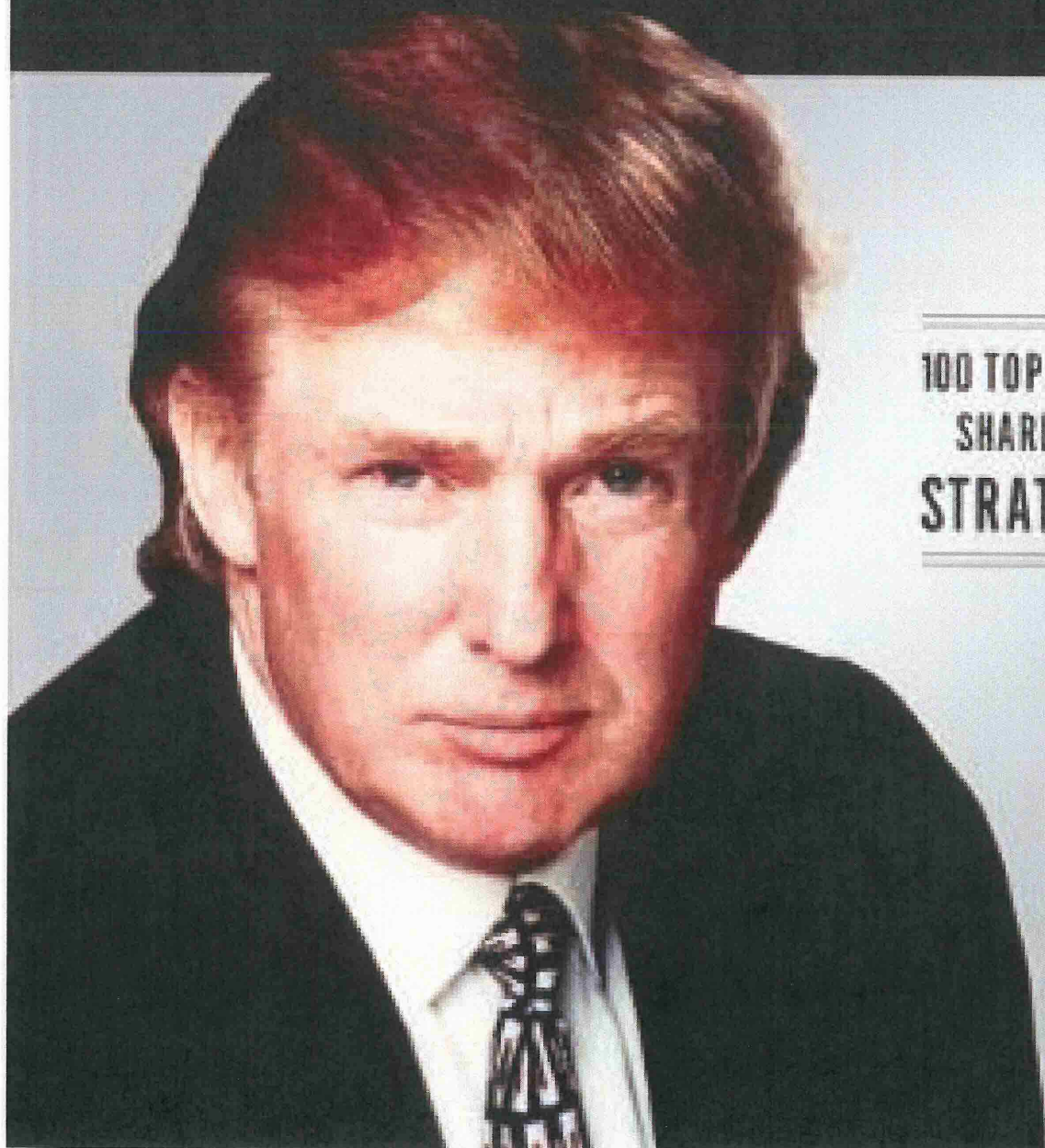
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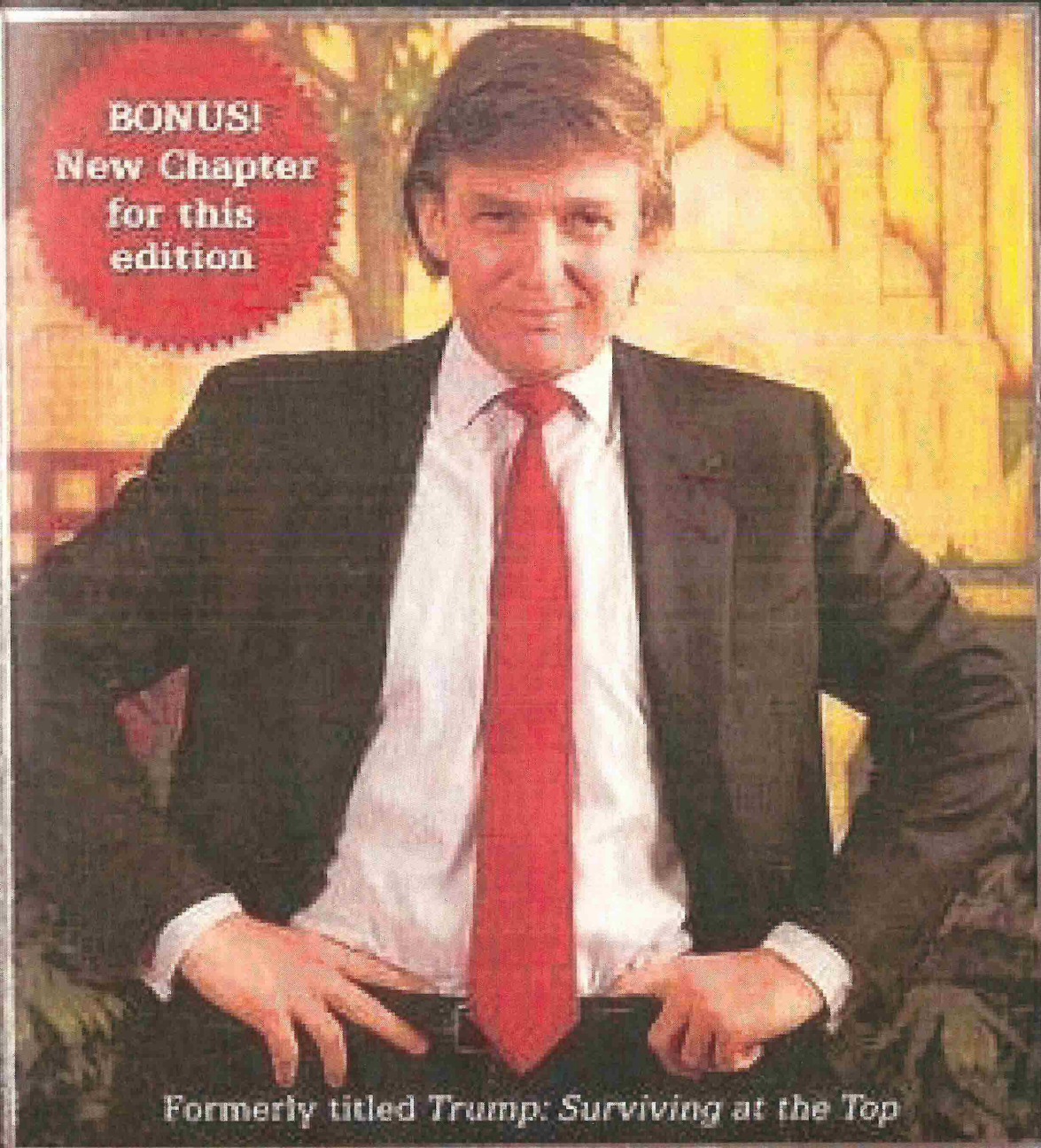
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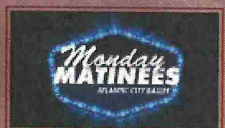


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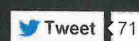
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JUNE 17, 2015: CARL ICAHN ISSUES STATEMENT CONCERNING TODAY'S LOCAL 54 PROTEST

I continue to think it's absurd that instead of working to improve Atlantic City at a time when the city is down on its luck, this Union spends time, effort and money to purposefully destroy one of the few remaining employers in town. I'm baffled by how they don't see that their destructive efforts may well result in 3,000 less jobs. In the end, what the Union doesn't tell you is that they make money on their exorbitant healthcare plan – upwards of \$140 million of net income over the past 5 years – and that is why they are more intent on fighting for their Union healthcare plan instead of saving jobs. What is eminently clear is that even with the savings awarded by the bankruptcy judge, the Taj continues to lose millions every month. I can say that the Union has been successful in one thing: causing three casinos, the Showboat, Plaza and Atlantic Club, to all close over the past year or two.



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From: Carl C. Icahn

Date: June 9, 2015

There are some important facts about your union that it is critical that you understand. [Click Here To Read](#)

To: All Local 54 Employees

From: Taj Management

Date: May 1, 2015

YOUR DECISION [Click Here To Read](#)

STATEMENT: STOCKTON/CAESARS SALE OF THE ATLANTIC CITY SHOWBOAT CASINO

We wanted to take this opportunity to set the record straight on the Stockton/Caesars sale of the Atlantic City Showboat Casino.

In 1988 Showboat, Resorts and Taj all agreed to provide for a cluster of casinos at the north end of the Boardwalk, on or near the former Urban Renewal Tract, to create greater customer traffic for all three properties. To that end, the three agreed that Showboat would always be operated as a first class casino hotel and the three properties would be inter-connected by skyways. This agreement was memorialized in a written agreement that was publicly recorded in the Atlantic City property records

In mid-December of 2014, Caesars asked the Taj to voluntarily waive the casino/hotel covenant to permit Stockton College to acquire Showboat and convert it into a college campus. We advised that because the Taj is in bankruptcy, as a matter of our fiduciary responsibilities to our creditors, we could not waive our valuable rights under this covenant without obtaining bankruptcy court approval and without receiving appropriate consideration. We were not offered any consideration for this waiver. This was over three months ago.

The facts are that our company does not think having a college next door to the Taj is good for our company. Having kids under 21 who will attempt to gain entry to the casino and engage in activities reserved for those only 21 and older would create numerous problems we do not want and could damage the Taj's ability to attract customers and regain its financial health.

You do not see a college on the Las Vegas strip.

Both Caesars and Stockton elected to proceed with the Showboat sale even though they were fully aware that we could not waive the casino/hotel covenant as they were asking.

No further comments will be given at this time. Thank you.

**Carl Icahn
Letter To
Union Employees
of Trump Taj Mahal
March 19, 2015**

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**Trump Entertainment Resorts, Inc.
Issues Open Memo
to Employees of the
Trump Taj Mahal Casino Hotel**

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see collection of colorful shops and [eateries](#), all in one place on Spice Road. A spa, fitness center, indoor pool and salon for when relaxation is top priority.

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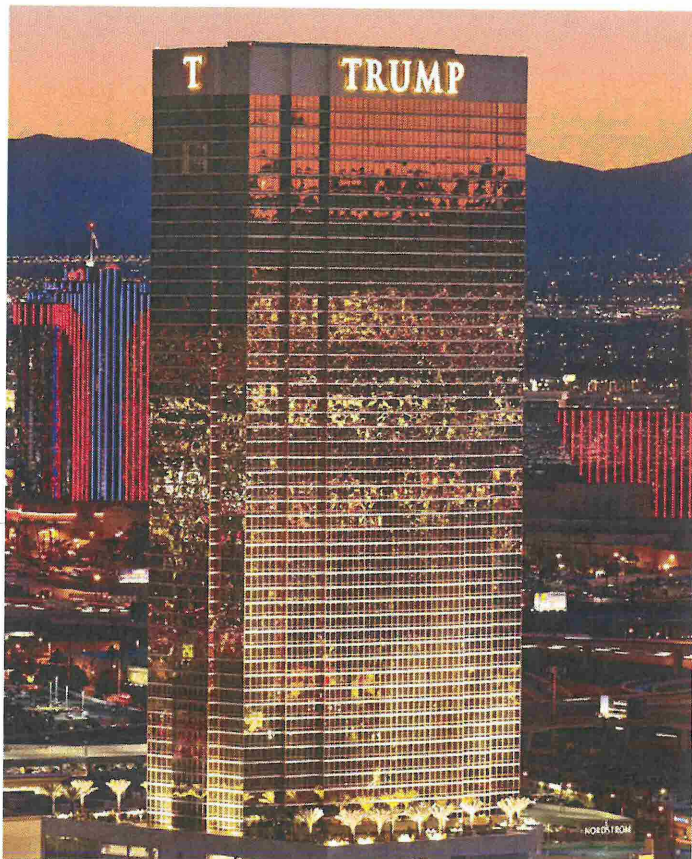
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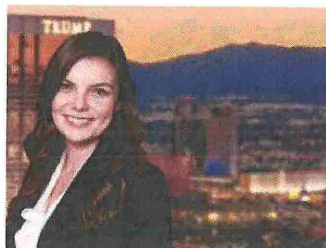
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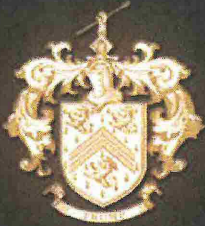
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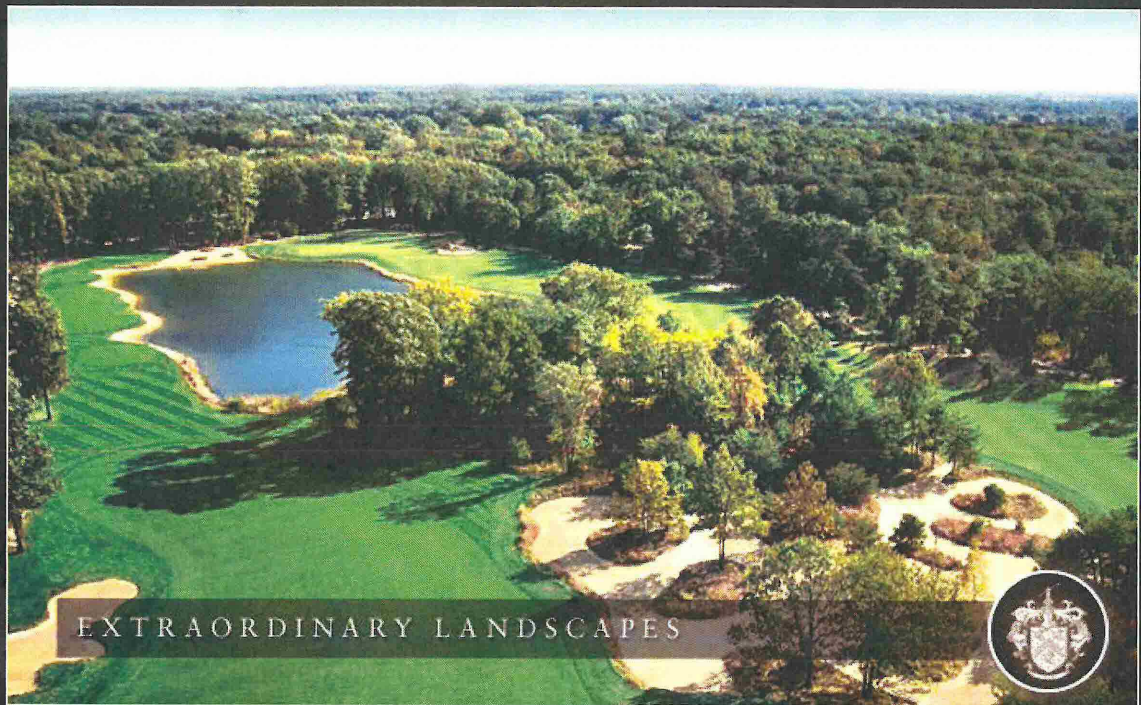


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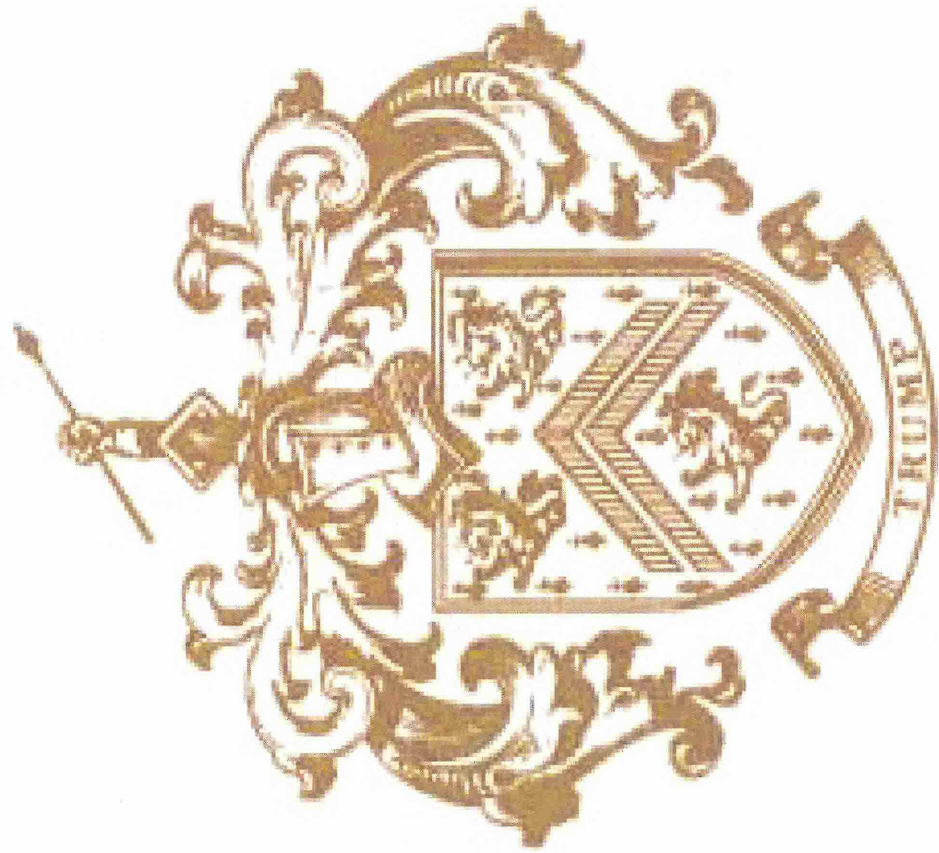
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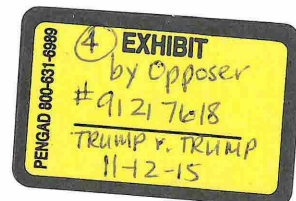
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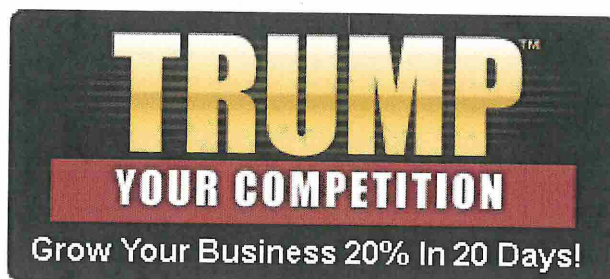
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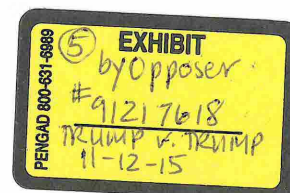
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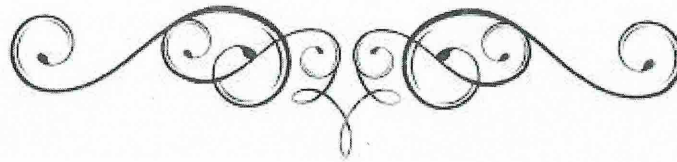
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Tony Seruga

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Jay Abraham
Marketing Legend



Tony Seruga is a very fascinating individual that, until recently, has maintained a certain anonymity. He slowly and methodically rose to the top of the field of direct-response advertising, and is considered by many insiders to be one of the best freelance copywriting and marketing experts in the country. Tony's unique ability to create successful Internet ventures has captured the attention and respect of Fortune 500 CEOs, entrepreneurs, best-selling authors, Internet "gurus" and marketing experts alike. In fact, if the truth be known, many marketing consultants would acknowledge Tony as their "secret weapon" including Bob (Allen) and I. In fact, Tony was instrumental in the promotion of our "One Minute Millionaire" book.

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